



SB 4 Community Advisory

How does SB4 affect the daily lives of Texans and the actions of Texas police?

Through SB 4, Governor Greg Abbott has sent a message to Texans and to the American people that unconstitutional behavior and discrimination is encouraged by the state of Texas. It is up to community members to exercise their rights and report violations to hold all levels of government accountable.

SB4 is a Texas state law that governs the actions of Texas law enforcement agents and elected officials. SB4 does not change immigration law, because Texas does not have power to change federal immigration laws or tell ICE or Border Patrol what to do. Texas only has power over Texas agencies and residents. In general, SB4 requires that local Texas law enforcement officers comply with ICE detainer requests, and prohibits any Texas town or county or agency from limiting their assistance to ICE or Border Patrol.

1 Texas' new law does not change the way police are required to act when enforcing Texas laws on the streets. But it does change the way police are likely to behave.

- There is no requirement for police to enforce federal immigration laws: SB4 does not authorize police to stop immigrants purely on the basis of immigration status, nor does it require police to inquire about immigration status.

EXAMPLE: Police Officer Joe stops Jose for running through a stop sign. Jose does not have a drivers' license, and Officer Joe gives him a ticket. Officer Joe decides not to ask Jose about his immigration status because it is not relevant to the traffic stop. He allows Jose to call his nephew, who has a drivers' license, to come drive the car away.

- Higher risk of police action based on assumed lack of immigration status: Because of SB4, police may be more likely to stop and arrest immigrants or question people about immigration status, even though this may be illegal discrimination.

EXAMPLE: Police Officer Joe stops Jose and claims he was speeding, although it is not true. Officer Joe asks Jose for his drivers' license and registration, but Jose does not have a license. Officer Joe demands Jose's "papers" and then arrests Jose. Officer Joe does this because he does not like Jose and wants to get him deported. Arresting Jose for driving without a license means he will likely get turned over to ICE or CBP.

2 Texas law enforcement officers do not have legal authority to stop or arrest someone based on their immigration status. SB4 cannot change this because it's in the U.S. Constitution.

- Texas police cannot legally stop someone solely because they suspect them of being undocumented.

EXAMPLE: Officer Joe is driving next to Jose and notices that Jose is playing cumbia music and singing along in Spanish. Jose is wearing Mexican style clothes and looks like a person from Mexico. Officer Joe thinks that Jose is an immigrant, but he has no reason to stop or arrest Jose, because he has no power to enforce immigration laws.

- Texas police cannot legally prolong someone's detention in order to investigate their immigration status.

EXAMPLE: Police Officer Joe stops Jose for running through a stop sign. Officer Joe would like to hold Jose by the side of the road and wait for Border Patrol to come take him, but he is not allowed to prolong the stop to enforce civil immigration law. Officer Joe arrests Jose for driving without a license and brings him back to the police station.

- It IS legal for Texas law enforcement to inquire about immigration status in the course of enforcing Texas criminal laws. However, it is not required.

EXAMPLE: Police Officer Joe stops Jose for running a stop sign. While checking Jose's license and registration, Officer Joe asks Jose if he has lawful immigration status. Jose tells the officer that he does not wish to answer this question and has the right to remain silent. Officer Joe says that he will arrest Jose if Jose doesn't answer, and Jose points out that he has provided his drivers' license, which SB4 says is sufficient proof of lawful status.

- 3** SB4 prohibits Texas towns or agencies from having any policy against asking about immigration status or limiting assistance in immigration enforcement. This means that police who have a bias against immigrants will have more latitude to ask about immigration status and report people to ICE and Border Patrol.

EXAMPLE: Police Chief Josie does not want her officers to be involved in immigration enforcement. She would prefer they not ask about immigration status and that she not have to spend her own money holding people on ICE detainees. However, SB4 prevents her from telling her officers not to ask about immigration status or refusing to hold people for ICE. In fact, she could be guilty of a crime if she refuses to comply with an ICE detainer, and could be removed from office.

- 4** SB4 requires police and jails to detain immigrants for transfer to ICE if ICE requests it (called an ICE detainer). Before SB4, most police and sheriffs would comply with these requests, but were not required to. At least one county (Travis County) had policies against enforcing some of these holds. SB4 prohibits any local policies to protect immigrants from ICE.

EXAMPLE: Officer Joe arrested Jose and now Jose is in jail with an ICE detainer. When Jose's criminal case for driving without a license is finished, Jose will be held in jail an extra two days and then transferred to ICE. Even though this detention may violate Jose's constitutional rights, SB4 requires the jail to comply with ICE's detainer request.

What should I do to protect myself?

1 Know your rights when interacting with law enforcement.

- You have the right to remain silent. You do not have to tell anyone your immigration status, where you were born, or where you came from.
- You have the right not to be stopped or detained without reasonable suspicion that you committed a crime. If the police violate this right, you should record what happened as best you can, and contact an attorney for help.
- You have the right not to be discriminated against on the basis of your race, ethnicity, or national origin. If Texas law enforcement agencies, or other agencies, discriminate against you, you should record what happened with as much detail as possible, and contact an attorney for help.
- Schools and school administrators should not ask parents, family members or students about their immigration status or citizenship. If this happens, contact an attorney for help.

2 Have a family plan for if someone is detained.

- Make sure all information and emergency contacts are up to date at your children's school(s) including who can and cannot pick up your children.
- Create a sheet of emergency numbers and contact information and a file of important documents so that you, your family or your emergency contact person can easily access them.
- Identify local immigration or civil rights lawyers and community organizations who may be able to help.

3 If YOU are detained:

- Stay silent!
- Don't sign anything that you don't understand.
- Do not answer any questions about your place of birth or your immigration status.
- Ask for/to call a lawyer.
- If you are still detained after the time you should otherwise be released, call your lawyer.

