

TRUST COALITION* OPPOSES LEGISLATION THAT HURTS ALL TEXANS

C.S.H.B. 12 UNDERMINES PUBLIC SAFETY AND HARMS SCHOOLS

C.S.H.B. 12 Takes Authority Away From Police Chiefs.

Under C.S.H.B. 12, police chiefs and sheriffs could no longer prevent their employees from asking immigration questions of a person lawfully detained or arrested, or prevent their employees from assisting federal immigration officers in enforcement activities, regardless of local law enforcement needs.

C.S.H.B. 12 is Bad for Local Policing.

Permitting police to ask immigration status questions during traffic stops and street encounters will waste law enforcement resources and undermine local control. The current response time for a top priority 911 call in Harris County (e.g., for a heart attack, burglary in progress with family home, etc.) is 5 minutes.¹ When peace officers in Harris County spend their time on immigration enforcement – such as asking drivers for proof of immigration status, and making an arrest on a moving violation so that immigration authorities can retrieve the immigrant from jail – **officers become unavailable for hours for high priority calls.**

C.S.H.B. 12 is Costly.

This bill will make the already serious problem of jail overcrowding in urban counties worse. The per-day cost of housing one inmate in an urban Texas jail is around \$60 to \$70. Every new immigrant arrested and detained on a petty offense because of an immigration screening will cost counties hundreds or even thousands of dollars. Under C.S.H.B. 12, the state would force this burden on counties without helping to pay for it. Harris, Dallas, and Bexar County Jails have each had problems with overcrowding during the past several years. Encouraging local law enforcement to act as immigration agents could **push large Texas jails back over capacity.**

C.S.H.B. 12 Undermines Public Safety.

This bill will **destroy the relationship between peace officers and neighborhoods and increase racial profiling.** When immigrants and families that include citizens and immigrants fear that peace officers are acting as immigration agents, they will stop reporting serious and violent crimes, and immigrant witnesses who see suspicious behavior or serious crimes will fail to come forward out of a fear of deportation. According to a 2009 study, when police in Irving first received 24-hour-a-day access to immigration ICE screening in their local jail, arrests of Latinos for traffic violations skyrocketed, while

* Members include Texas Association of Businesses (TAB), Texas Apartment Association (TAA), San Antonio Greater Chamber of Commerce, San Antonio Hispanic Chamber of Commerce, Texas Association of Mexican American Chambers of Commerce (TAMACC), Service Employees International Union of Texas (SEIU), Christian Life Commission of the Baptist General Convention of Texas, American Civil Liberties Union of Texas (ACLU), Mexican American Legal Defense and Educational Fund (MALDEF), Texas Association of Chicanos in Higher Education (TACHE), Center for Public Policy Priorities (CPPP), Mothers Against Discriminatory Racism in Education and Society (MADRES), La Fe Policy Research and Education, Reform Immigration Texas Alliance (RITA), Texas Association for Bilingual Education (TABE), Anti-Defamation League- Southwest and North Texas Regions, Mexicans and Americans Thinking Together (MATT), Southwest Voter Registration Education Project (SVREP), American Immigration Lawyers Association Texas, Oklahoma and New Mexico Chapter, Texas Impact, University Leadership Initiative, William C. Velasquez Institute (WCVI), Texas AFL-CIO, Somos Republicans.

¹ Data provided by the Harris County Sheriff's Department on 2/24/11, on file with Texas Criminal Justice Coalition.

arrests of Anglos and African Americans for traffic offenses remained the same.² Over 80 U.S. citizens and legal resident Latinos were arrested for minor traffic offenses as part of this immigration dragnet.³

C.S.H.B. 12 Risks Lawsuits against Local Government Employers.

Federal immigration law does not and cannot require local law enforcement to ask immigration questions. Federal authorities will not deputize local law enforcement to ask immigration questions without specialized training provided under the program created by 8 U.S.C. § 1357(g).⁴ Federal law recognizes immigration enforcement as a law enforcement specialty that requires special training. When local law enforcement try to make immigration status determinations without this training, they are more likely to make mistakes, potentially leading to expensive litigation.

C.S.H.B 12 Targets School Children.

This bill **applies to school districts and community colleges, hurting school district budgets and worsening Texas' high school dropout problem.** According to Local Government Code § 178.051, school districts and community colleges are included on the list of 69 types of special districts. School districts often have their own police departments and students are often issued class C misdemeanor tickets for misbehavior at school. Under C.S.H.B. 12, one of these tickets could lead to immigration detention. It only takes one student being referred to immigration custody to drive all other undocumented students from that school and destroy the school's average daily attendance. This bill could create great uncertainty for school district budgets and be a catalyst for increasing Texas' already significant dropout problem.⁵

C.S.H.B. 12 Creates Additional Financial Burdens.

C.S.H.B. 12 would strip state money from entities seen as not complying with the new law, placing schools in particular between a rock and a hard place. Supreme Court precedent⁶ requires schools to provide equal access to public education to U.S. citizen children, lawful immigrant and undocumented immigrant children. A school refusing to permit peace officers to ask immigration questions under C.S.H.B. 12 could lose state funding and a school district that follows C.S.H.B. 12 could be sued in federal court for discrimination. Taking needed state resources away from struggling schools is bad public policy in this fiscal environment.

SOLUTIONS

- **Amend/Oppose C.S.H.B. 12 to address negative impacts on public safety and schools.**
- **Maintain police chiefs' and sheriffs' control and discretion to set criminal justice priorities, which will avoid taking scarce resources away from local criminal justice needs.**
- **Support strategies that improve information sharing between local law enforcement and victims, witnesses, and high-crime communities.**

² "The C.A.P. Effect, Racial Profiling in the Criminal Alien Program," Trevor Gardner II and Aarti Kohli, Policy Brief, Sept. 2009, The Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California, Berkeley Law School, p. 6.

³ Id. at 7.

⁴ This program is more commonly referred to as 287(g), for its section number in the Immigration and Nationality Act.

⁵ According to a recent *Texas Tribune* story, both the TEA and the Intercultural Development Research Association put the Texas dropout rate, the percentage of freshmen that do not receive either a GED or high school diploma, in the 28 to 29% range.

"New Study: Dropout Rate Falling but Still High," Tristan Hallman, 10/27/10, *Texas Tribune*, at

<http://www.texastribune.org/texas-education/high-school-dropouts/new-study-dropout-rate-falling-but-still-high/> (last visited 2/27/11).

⁶ *Plyler v. Doe*, 457 U.S. 202 (1982).