

AMENDED IN SENATE MARCH 29, 2017

AMENDED IN SENATE MARCH 6, 2017

AMENDED IN SENATE MARCH 1, 2017

AMENDED IN SENATE JANUARY 24, 2017

SENATE BILL

No. 54

Introduced by Senator De León

(Principal coauthors: Senators Atkins, *Beall*, Pan, and Wiener)

(Principal coauthors: Assembly Members Bonta, Chiu, Cooper, Gomez, Levine, ~~and~~ Reyes *Reyes*, and *Santiago*)

December 5, 2016

An act to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of the Government Code, to repeal Section 11369 of the Health and Safety Code, and to add Sections 3058.10 and 3058.11 to the Penal Code, relating to law ~~enforcement, and declaring the urgency thereof, to take effect immediately.~~ *enforcement.*

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual

exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other ~~things~~, *things and subject to exceptions*, prohibit state and local law enforcement agencies, including school police and security departments, from using resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified. The bill would require, within 3 months after the effective date of the bill, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by those entities for those purposes. The bill would require all public schools, *public libraries*, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state that all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, to submit a report every 6 months to the Department of Justice, as specified. The bill would require the Attorney General, within 14 months after the effective date of the bill, and twice a year thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require the Board of Parole Hearings or the Department of Corrections and Rehabilitation, as applicable, to notify ~~the Federal Bureau of Investigation~~ *United States Immigration and Customs Enforcement* of the scheduled release on parole or postrelease community supervision, or rerelease following a period of confinement pursuant to a parole revocation without a new commitment, of all persons confined to state prison serving a *current* term for the conviction of a violent ~~felony~~, and would ~~authorize the sheriff to notify the Federal Bureau of Investigation of the scheduled release of a person confined to county jail for a misdemeanor offense who has a prior conviction for a violent felony, as specified. or serious felony, or who has a prior conviction for a violent or serious felony.~~

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 17.25 (commencing with Section 7284)
2 is added to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 17.25. COOPERATION WITH FEDERAL IMMIGRATION
5 AUTHORITIES

6
7 7284. This chapter shall be known, and may be cited, as the
8 California Values Act.

9 7284.2. The Legislature finds and declares the following:

10 (a) Immigrants are valuable and essential members of the
11 California community. Almost one in three Californians is foreign
12 born and one in two children in California has at least one
13 immigrant parent.

14 (b) A relationship of trust between California’s immigrant
15 community and state and local agencies is central to the public
16 safety of the people of California.

17 (c) This trust is threatened when state and local agencies are
18 entangled with federal immigration enforcement, with the result
19 that immigrant community members fear approaching police when
20 they are victims of, and witnesses to, crimes, seeking basic health
21 services, or attending school, to the detriment of public safety and
22 the well-being of all Californians.

23 (d) Entangling state and local agencies with federal immigration
24 enforcement programs diverts already limited resources and blurs
25 the lines of accountability between local, state, and federal
26 governments.

1 (e) State and local participation in federal immigration
2 enforcement programs also raises constitutional concerns, including
3 the prospect that California residents could be detained in violation
4 of the Fourth Amendment to the United States Constitution,
5 targeted on the basis of race or ethnicity in violation of the Equal
6 Protection Clause, or denied access to education based on
7 immigration status.

8 (f) This act seeks to ensure effective policing, to protect the
9 safety, well-being, and constitutional rights of the people of
10 California, and to direct the state's limited resources to matters of
11 greatest concern to state and local governments.

12 7284.4. For purposes of this chapter, the following terms have
13 the following meanings:

14 (a) "California law enforcement agency" means a state or local
15 law enforcement agency, including school police or security
16 departments.

17 (b) "Civil immigration warrant" means any warrant for a
18 violation of federal civil immigration law, and includes civil
19 immigration warrants entered in the National Crime Information
20 Center database.

21 (c) "Federal immigration authority" means any officer,
22 employee, or person otherwise paid by or acting as an agent of
23 United States Immigration and Customs Enforcement or United
24 States Customs and Border Protection, or any division thereof, or
25 any other officer, employee, or person otherwise paid by or acting
26 as an agent of the United States Department of Homeland Security
27 who is charged with immigration enforcement.

28 (d) "Health facility" includes health facilities as defined in
29 Section 1250 of the Health and Safety Code, clinics as defined in
30 Sections 1200 and 1200.1 of the Health and Safety Code, and
31 substance abuse treatment facilities.

32 (e) "Hold request," "notification request," "transfer request,"
33 and "local law enforcement agency" have the same meaning as
34 provided in Section 7283. Hold, notification, and transfer requests
35 include requests issued by United States Immigration and Customs
36 Enforcement or United States Customs and Border Protection as
37 well as any other federal immigration authorities.

38 (f) "Immigration enforcement" includes any and all efforts to
39 investigate, enforce, or assist in the investigation or enforcement
40 of any federal civil immigration law, and also includes any and all

1 efforts to investigate, enforce, or assist in the investigation or
2 enforcement of any federal criminal immigration law that penalizes
3 a person’s presence in, entry, or reentry to, or employment in, the
4 United States, including, but not limited to, violations of Section
5 1253, 1324e, 1325, or 1326 of Title 8 of the United States Code.
6 States. “Immigration enforcement” does not include either of the
7 following:

8 (1) Efforts to investigate, enforce, or assist in the investigation
9 or enforcement of a violation of Section 1326(a) of Title 8 of the
10 United States Code that may be subject to the enhancement
11 specified in Section 1326(b)(2) of Title 8 of the United States Code
12 and that is detected during an unrelated law enforcement activity.

13 (2) Transferring an individual to federal immigration authorities
14 for a violation of Section 1326(a) of Title 8 of the United States
15 Code that is subject to the enhancement specified in Section
16 1326(b)(2) of that title if the individual has been previously
17 convicted of a violent felony listed in subdivision (c) of Section
18 667.5 of the Penal Code.

19 (g) “Joint law enforcement task force” means a California law
20 enforcement agency collaborating, engaging, or partnering with a
21 federal law enforcement agency in investigating, interrogating,
22 detaining, detecting, or arresting persons for violations of federal
23 or state crimes.

24 (h) “Judicial warrant” means a warrant based on probable cause
25 and issued by a federal judge or a federal magistrate judge that
26 authorizes federal immigration authorities to take into custody the
27 person who is the subject of the warrant.

28 (i) “Public schools” means all public elementary and secondary
29 schools under the jurisdiction of local governing boards or a charter
30 school board, the California State University, and the California
31 Community Colleges.

32 (j) “School police and security departments” includes police
33 and security departments of the California State University, the
34 California Community Colleges, charter schools, county offices
35 of education, schools, and school districts.

36 7284.6. (a) California law enforcement agencies shall not do
37 any of the following:

38 (1) Use agency or department moneys, facilities, property,
39 equipment, or personnel to investigate, interrogate, detain, detect,

- 1 or arrest persons for immigration enforcement purposes, including,
 2 but not limited to, any of the following:
- 3 (A) ~~Inquiring into or collecting information about an individual's~~
 4 ~~immigration status, except as required to comply with Section~~
 5 ~~922(d)(5) of Title 18 of the United States Code.~~ *status.*
- 6 (B) Detaining an individual on the basis of a hold request.
- 7 (C) ~~Responding to requests for notification or transfer requests.~~
 8 *by providing release dates or other information unless that*
 9 *information is available to the public.*
- 10 (D) *Providing information regarding a person's release date*
 11 *unless that information is available to the public.*
- 12 ~~(D)~~
- 13 (E) ~~Providing or responding to requests for nonpublicly available~~
 14 ~~personal information about an individual, including, but not limited~~
 15 ~~to, information about the person's release date, home address, the~~
 16 *individual's home address or work address for immigration*
 17 ~~enforcement purposes.~~ *unless that information is available to the*
 18 *public.*
- 19 ~~(E)~~
- 20 (F) Making arrests based on civil immigration warrants.
- 21 ~~(F)~~
- 22 (G) Giving federal immigration authorities access to interview
 23 ~~individuals~~ *an individual* in agency or department ~~custody for~~
 24 ~~immigration enforcement purposes.~~ *custody, except pursuant to a*
 25 *judicial warrant, and in accordance with Section 7283.1.*
- 26 ~~(G)~~
- 27 (H) Assisting federal immigration authorities in the activities
 28 described in Section 1357(a)(3) of Title 8 of the United States
 29 Code.
- 30 ~~(H)~~
- 31 (I) Performing the functions of an immigration officer, whether
 32 pursuant to Section 1357(g) of Title 8 of the United States Code
 33 or any other law, regulation, or policy, whether formal or informal.
- 34 (2) Make agency or department databases, including databases
 35 maintained for the agency or department by private vendors, or
 36 the information therein other than information regarding an
 37 individual's citizenship or immigration status, available to anyone
 38 or any entity for the purpose of immigration enforcement. Any
 39 agreements in existence on the date that this chapter becomes
 40 operative that conflict with the terms of this paragraph are

1 terminated on that date. A person or entity provided access to
2 agency or department databases shall certify in writing that the
3 database will not be used for the purposes prohibited by this
4 section.

5 (3) Place peace officers under the supervision of federal agencies
6 or employ peace officers deputized as special federal officers or
7 special federal deputies except to the extent those peace officers
8 remain subject to California law governing conduct of peace
9 officers and the policies of the employing agency.

10 (4) Use federal immigration authorities as interpreters for law
11 enforcement matters relating to individuals in agency or department
12 custody.

13 (5) *Transfer an individual to federal immigration authorities*
14 *unless authorized by a judicial warrant or for a violation of Section*
15 *1326(a) of Title 8 of the United States Code that is subject to the*
16 *enhancement specified in Section 1326(b)(2) of Title 8 of the United*
17 *States Code and the individual has been previously convicted of*
18 *a violent felony listed in subdivision (c) of Section 667.5 of the*
19 *Penal Code.*

20 (b) ~~Nothing~~ *Notwithstanding the limitations in subdivision (a),*
21 *nothing* in this section shall prevent any California law enforcement
22 agency from doing any of the following:

23 (1) Responding to a request from federal immigration authorities
24 for information about a specific person's criminal history, including
25 previous criminal arrests, convictions, and similar criminal history
26 information accessed through the California Law Enforcement
27 Telecommunications System (CLETS), where otherwise permitted
28 by state law.

29 (2) Participating in a joint law enforcement task force, so long
30 as the *primary* purpose of the joint law enforcement task force is
31 not immigration enforcement, as defined in subdivision (f) of
32 ~~Section 7284.4.~~ *7284.4, and participation in the task force by the*
33 *California law enforcement does not violate any local law or policy*
34 *of the jurisdiction in which the agency is operating.*

35 (3) *Making inquiries into information necessary to certify an*
36 *individual who has been identified as a potential crime or*
37 *trafficking victim for a T or U Visa pursuant to Section*
38 *1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States*
39 *Code or to comply with Section 922(d)(5) of Title 18 of the United*
40 *States Code.*

1 (4) Responding to a notification request from federal
2 immigration authorities for a person who is serving a term for the
3 conviction of a misdemeanor or felony offense and has a current
4 or prior conviction for a violent felony listed in subdivision (c) of
5 Section 667.5 of the Penal Code or a serious felony listed in
6 subdivision (c) of Section 1192.7 of the Penal Code, provided that
7 response would not violate any local law or policy.

8 (c) If a California law enforcement agency chooses to participate
9 in a joint law enforcement task force, it shall submit a report every
10 six months to the Department of Justice, as specified by the
11 Attorney General. ~~The reporting agency or the Attorney General~~
12 ~~may determine a report, in whole or in part, is not a public record~~
13 ~~for purposes of the California Public Records Act pursuant to~~
14 ~~subdivision (f) of Section 6254 to prevent the disclosure of~~
15 ~~sensitive information, including, but not limited to, an ongoing~~
16 ~~operation or a confidential informant. The report shall detail for~~
17 ~~each task force operation, the purpose of the task force, the federal,~~
18 ~~state, and local law enforcement agencies involved, the number~~
19 ~~of California law enforcement agency personnel involved, a~~
20 ~~description of arrests made for any federal and state crimes, and~~
21 ~~a description of the number of people arrested for immigration~~
22 ~~enforcement purposes. The reporting agency or the Attorney~~
23 ~~General may determine a report, in whole or in part, shall not be~~
24 ~~subject to disclosure pursuant to subdivision (f) of Section 6254,~~
25 ~~the California Public Records Act, to the extent that disclosure of~~
26 ~~a particular item of information would endanger the safety of a~~
27 ~~person involved in an investigation or would endanger the~~
28 ~~successful completion of the investigation or a related~~
29 ~~investigation.~~

30 (d) The Attorney General, within 14 months after the effective
31 date of the act that added this section, and twice a year thereafter,
32 shall report on the types and frequency of joint law enforcement
33 task forces. The report shall include, for the reporting period,
34 assessments on compliance with paragraph (2) of subdivision (b),
35 a list of all California law enforcement agencies that participate
36 in joint law enforcement task forces, a list of joint law enforcement
37 task forces operating in the state and their purposes, the number
38 of arrests made associated with joint law enforcement task forces
39 for the violation of federal or state crimes, and the number of arrests
40 made associated with joint law enforcement task forces for the

1 purpose of immigration enforcement by all task force participants,
2 including federal law enforcement agencies. The Attorney General
3 shall post the reports required by this subdivision on the Attorney
4 General’s Internet Web site.

5 (e) Notwithstanding any other law, in no event shall a California
6 law enforcement agency transfer an individual to federal
7 immigration authorities for purposes of immigration enforcement
8 or detain an individual at the request of federal immigration
9 authorities for purposes of immigration enforcement absent a
10 ~~judicial warrant~~. *warrant, except as provided in paragraph (4) of*
11 *subdivision (b)*. This subdivision does not limit the scope of
12 subdivision (a).

13 (f) This section does not prohibit or restrict any government
14 entity or official from sending to, or receiving from, federal
15 immigration authorities, information regarding the citizenship or
16 immigration status, lawful or unlawful, of an individual pursuant
17 to Sections 1373 and 1644 of Title 8 of the United States Code.

18 7284.8. The Attorney General, within three months after the
19 effective date of the act that added this section, in consultation
20 with the appropriate stakeholders, shall publish model policies
21 limiting assistance with immigration enforcement to the fullest
22 extent possible consistent with federal and state law at public
23 schools, *public libraries*, health facilities operated by the state or
24 a political subdivision of the state, courthouses, Division of Labor
25 Standards Enforcement facilities, and shelters, and ensuring that
26 they remain safe and accessible to all California residents,
27 regardless of immigration status. All public schools, health facilities
28 operated by the state or a political subdivision of the state, and
29 courthouses shall implement the model policy, or an equivalent
30 policy. All other organizations and entities that provide services
31 related to physical or mental health and wellness, education, or
32 access to justice, including the University of California, are
33 encouraged to adopt the model policy.

34 7284.10. The provisions of this act are severable. If any
35 provision of this act or its application is held invalid, that invalidity
36 shall not affect other provisions or applications that can be given
37 effect without the invalid provision or application.

38 SEC. 2. Section 11369 of the Health and Safety Code is
39 repealed.

40 SEC. 3. Section 3058.10 is added to the Penal Code, to read:

1 3058.10. (a) The Board of Parole Hearings, with respect to
 2 inmates sentenced pursuant to subdivision (b) of Section 1168, or
 3 the Department of Corrections and Rehabilitation, with respect to
 4 inmates sentenced pursuant to Section 1170, shall notify ~~the Federal~~
 5 ~~Bureau of Investigation~~ *United States Immigration and Customs*
 6 *Enforcement* of the scheduled release on parole or postrelease
 7 community supervision, or rerelease following a period of
 8 confinement pursuant to a parole revocation without a new
 9 commitment, of all persons confined to state prison serving a
 10 *current* term for the conviction ~~of of, or who have a prior~~
 11 *conviction for*, a violent felony listed in subdivision (c) of Section
 12 ~~667.5. 667.5 or a serious felony listed in subdivision (c) of Section~~
 13 *1192.7.*

14 (b) The notification shall be made at least 60 days prior to the
 15 scheduled release date or as soon as practicable if notification
 16 cannot be provided at least 60 days prior to release. The only
 17 nonpublicly available personal information that the notification
 18 may include is the name of the person who is scheduled to be
 19 released and the scheduled date of release.

20 ~~SEC. 4. Section 3058.11 is added to the Penal Code, to read:~~

21 ~~3058.11. (a) Whenever any person confined to county jail is~~
 22 ~~serving a term for the conviction of a misdemeanor offense and~~
 23 ~~has a prior conviction for a violent felony listed in subdivision (c)~~
 24 ~~of Section 667.5 or has a prior felony conviction in another~~
 25 ~~jurisdiction for an offense that has all the elements of a violent~~
 26 ~~felony described in subdivision (c) of Section 667.5, the sheriff~~
 27 ~~may notify the Federal Bureau of Investigation of the scheduled~~
 28 ~~release of that person, provided that no local law or policy prohibits~~
 29 ~~the sharing of that information with either the Federal Bureau of~~
 30 ~~Investigation or federal immigration authorities.~~

31 ~~(b) The notification may be made up to 60 days prior to the~~
 32 ~~scheduled release date. The only nonpublicly available personal~~
 33 ~~information that the notification may include is the name of the~~
 34 ~~person who is scheduled to be released and the scheduled date of~~
 35 ~~release.~~

36 ~~SEC. 5.~~

37 *SEC. 4.* If the Commission on State Mandates determines that
 38 this act contains costs mandated by the state, reimbursement to
 39 local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

3 ~~SEC. 6. This act is an urgency statute necessary for the~~
4 ~~immediate preservation of the public peace, health, or safety within~~
5 ~~the meaning of Article IV of the California Constitution and shall~~
6 ~~go into immediate effect. The facts constituting the necessity are:~~

7 ~~Because changes in federal immigration enforcement policies~~
8 ~~require a statewide standard that clarifies the appropriate level of~~
9 ~~cooperation between federal immigration enforcement agents and~~
10 ~~state and local governments as soon as possible, it is necessary for~~
11 ~~this measure to take effect immediately.~~

O