

AMENDED IN SENATE JANUARY 24, 2017

SENATE BILL

No. 54

**Introduced by Senator De León
(Principal coauthor: Senator Pan)**

(Principal coauthor: ~~coauthors: Assembly Member Members Chiu,
Gomez, and Levine~~)

December 5, 2016

An act to repeal Section 11369 of the Health and Safety Code, and to add Chapter ~~8 (commencing with Section 885) to Title 3 of Part 2 of the Penal Code, 17.25 (commencing with Section 7284) to Division 7 of Title 1 of the Government Code, relating to law enforcement, enforcement, and declaring the urgency thereof, to take effect immediately.~~

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, prohibit state and local law enforcement agencies and school police and security departments from using resources to investigate, *interrogate*, detain, detect, ~~report~~, or arrest persons for immigration enforcement purposes, ~~or to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, or national or ethnic origin~~, as specified. The bill would ~~require~~ *require, within 6 months after the effective date of the bill*, state agencies to review their confidentiality policies and identify any changes necessary to ensure that information collected from individuals is limited to that necessary to perform agency duties and is not used or disclosed for any other purpose, as specified. ~~The bill would require public schools, hospitals, and courthouses to establish and make public policies that limit immigration enforcement on their premises and~~ *The bill would require, within 3 months after the effective date of the bill*, the Attorney General, in consultation with appropriate stakeholders, to publish model policies for use by those entities for those purposes. *The bill would also require, within 3 months after the effective date of the bill, the Attorney General to publish model contractual provisions for all state agencies that partner with private vendors for data collection purposes to ensure that those vendors comply with the confidentiality policies, as specified. The bill would require all public schools, health facilities operated by the state or a political subdivision of the state, courthouses, and shelters 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 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: ~~majority~~²/₃. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 11369 of the Health and Safety Code is
2 repealed.

3 SEC. 2. Chapter ~~817.25~~ (commencing with Section ~~885~~)⁷²⁸⁴
4 is added to Title ~~3~~ Division 7 of Part ~~2~~ Title 1 of the
5 ~~Penal~~ Government Code, to read:

6
7 CHAPTER ~~8~~^{17.25}. COOPERATION WITH FEDERAL IMMIGRATION
8 AUTHORITIES
9

10 ~~885~~:

11 ⁷²⁸⁴. This chapter shall be known, and may be cited, as the
12 California Values Act.

13 ~~885.2~~:

14 ^{7284.2}. The Legislature finds and declares the following:

15 (a) Immigrants are valuable and essential members of the
16 California community. Almost one in three Californians is foreign
17 born and one in two children in California has at least one
18 immigrant parent.

19 (b) A relationship of trust between California's immigrant
20 community and state and local ~~law enforcement~~ agencies is central
21 to the public safety of the people of California.

22 (c) This trust is threatened when *state and local law enforcement*
23 agencies are entangled with federal immigration enforcement, with
24 the result that immigrant community members fear approaching
25 police when they are victims of, and witnesses to, ~~crimes~~. *crimes,*
26 *seeking basic health services, or attending school, to the detriment*
27 *of public safety and the well-being of all Californians.*

28 (d) *Entangling state and local agencies with federal immigration*
29 *enforcement programs diverts already limited resources and blurs*
30 *the lines of accountability between local, state, and federal*
31 *governments.*

32 (e) *State and local participation in federal immigration*
33 *enforcement programs also raises constitutional concerns,*

1 *including the prospect that California residents could be detained*
2 *in violation of the Fourth Amendment to the United States*
3 *Constitution, targeted on the basis of race or ethnicity in violation*
4 *of the Equal Protection Clause, or denied access to education*
5 *based on immigration status.*

6 ~~(d)~~

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

11 ~~885.4.~~

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

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

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

25 (c) "Health facility" *includes health facilities as defined in*
26 *Section 1250 of the Health and Safety Code, clinics as defined in*
27 *Sections 1200 and 1200.1 of the Health and Safety Code, and*
28 *substance abuse treatment facilities.*

29 ~~(e)~~

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

37 ~~(d)~~

38 (e) "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, 1324c, 1325, or 1326 of Title 8 of the United States Code.

6 (e)

7 (f) "Judicial warrant" means a warrant based on probable cause
8 and issued by a federal judge or a federal magistrate judge that
9 authorizes federal immigration authorities to take into custody the
10 person who is the subject of the warrant.

11 (g) "*Public schools*" means all public elementary and secondary
12 schools under the jurisdiction of local governing boards or a
13 charter school board, the California State University, and the
14 California Community Colleges.

15 (f)

16 (h) "School police and security departments" includes police
17 and security departments of the California State University, the
18 California Community Colleges, *charter schools*, *county offices*
19 *of education*, schools, and school districts.

20 (g)

21 (i) "State agency" has the same meaning as provided in Section
22 11000 of the Government Code.

23 885.6.

24 7284.6. (a) State and local law enforcement agencies and
25 school police and security departments shall not do any of the
26 following:

27 (1) Use agency or department moneys, facilities, property,
28 equipment, or personnel to investigate, *interrogate*, detain, detect,
29 ~~report~~, or arrest persons for immigration enforcement purposes,
30 including, but not limited to, any of the following:

31 ~~(A) Responding to hold, notification, and transfer requests from~~
32 ~~federal immigration authorities.~~

33 (A) *Inquiring into or collecting information about an*
34 *individual's immigration status.*

35 (B) *Detaining an individual on the basis of a hold request.*

36 (C) *Responding to requests for notification or transfer requests.*

37 ~~(B) Responding~~

38 (D) *Providing or responding to requests for nonpublicly*
39 *available personal information about an individual, including, but*

1 not limited to, information about the person's release date, home
2 address, or work address for immigration enforcement purposes.

3 ~~(C)~~

4 ~~(E)~~ Making arrests based on civil immigration warrants.

5 ~~(D)~~

6 ~~(F)~~ Giving federal immigration authorities access to interview
7 individuals in agency or department custody for immigration
8 enforcement purposes.

9 ~~(G)~~ *Assisting federal immigration authorities in the activities*
10 *described in Section 1357(a)(3) of Title 8 of the United States*
11 *Code.*

12 ~~(E)~~

13 ~~(H)~~ Performing the functions of an immigration officer, whether
14 pursuant to Section 1357(g) of Title 8 of the United States Code
15 or any other law, regulation, or policy, whether formal or informal.

16 ~~(2) Use agency or department moneys, facilities, property,~~
17 ~~equipment, or personnel to investigate, enforce, or assist in the~~
18 ~~investigation or enforcement of any federal program requiring~~
19 ~~registration of individuals on the basis of race, gender, sexual~~
20 ~~orientation, religion, or national or ethnic origin.~~

21 ~~(3)~~

22 ~~(2) Make agency or department databases~~ *databases, including*
23 *databases maintained for the agency or department by private*
24 *vendors, or the information therein other than information*
25 *regarding an individual's citizenship or immigration status,*
26 *available to anyone or any entity for the purpose of immigration*
27 ~~enforcement or investigation or enforcement of any federal program~~
28 ~~requiring registration of individuals on the basis of race, gender,~~
29 ~~sexual orientation, religion, immigration status, or national or~~
30 ~~ethnic origin.~~ *enforcement. Any agreements in existence on the*
31 *date that this chapter becomes operative that make any agency or*
32 ~~department database available in~~ *conflict with the terms of this*
33 *paragraph are terminated on that date. A person or entity provided*
34 *access to agency or department databases shall certify in writing*
35 *that the database will not be used for the purposes prohibited by*
36 *this section.*

37 ~~(4)~~

38 ~~(3)~~ Place peace officers under the supervision of federal agencies
39 or employ peace officers deputized as special federal officers or
40 special federal deputies except to the extent those peace officers

1 remain subject to California law governing conduct of peace
2 officers and the policies of the employing agency.

3 (b) Nothing in this section shall prevent the department or any
4 state or local law enforcement agency, including school police or
5 security departments, from responding to a request from federal
6 immigration authorities for information about a specific person's
7 previous criminal arrests or convictions where otherwise permitted
8 by state law or from responding to a lawful subpoena. law.

9 (c) Notwithstanding any other law, in no event shall state or
10 local law enforcement agencies or school police or security
11 departments transfer an individual to federal immigration
12 authorities for purposes of immigration enforcement or detain an
13 individual at the request of federal immigration authorities for
14 purposes of immigration enforcement absent a judicial warrant.
15 This subdivision does not limit the scope of subdivision (a).

16 ~~885.8.~~

17 7284.8. (a) In order to ensure that eligible individuals are not
18 deterred from seeking services or engaging with state agencies,
19 all state agencies ~~shall~~ *shall, within six months after the effective*
20 *date of the act that added this section,* review their confidentiality
21 policies and identify any changes necessary to ensure that
22 information collected from individuals is limited to that necessary
23 to perform agency duties and is not used or disclosed for any other
24 purpose. Any necessary changes to those policies shall be made
25 as expeditiously as possible, consistent with agency or department
26 procedures. *The Attorney General shall, within three months after*
27 *the effective date of the act that added this section, publish model*
28 *contractual provisions for all state agencies that partner with*
29 *private vendors for data collection purposes to ensure that those*
30 *vendors comply with the confidentiality policies established*
31 *pursuant to this section.*

32 (b) The Attorney General, *within three months after the effective*
33 *date of the act that added this section,* in consultation with the
34 appropriate stakeholders, shall publish model policies ~~for limiting~~
35 *immigration enforcement to the fullest extent possible consistent*
36 *with federal and state law at public schools, hospitals, and*
37 ~~courthouses~~ *health facilities operated by the state or a political*
38 *subdivision of the state, courthouses, and shelters,* to ensure that
39 ~~all public schools, hospitals, and courthouses~~ *they* remain safe and
40 accessible to all California residents, regardless of immigration

1 status. All public schools, hospitals, and courthouses shall establish
2 and make public policies that limit immigration enforcement on
3 their premises to the fullest extent possible consistent with federal
4 and state law. All public schools, health facilities operated by the
5 state or a political subdivision of the state, and courthouses shall
6 implement the model policy, or an equivalent policy. All other
7 organizations and entities that provide services related to physical
8 or mental health and wellness, education, or access to justice,
9 including the University of California, are encouraged to adopt
10 the model policy.

11 ~~885.10.~~

12 7284.10. Nothing in this chapter prohibits or restricts any state
13 or local agency government entity or official from sending to, or
14 receiving from, any local, state, or federal agency, immigration
15 authorities, information regarding an individual's the citizenship
16 or immigration status. "Information regarding an individual's
17 citizenship or immigration status," for purposes of this section,
18 means a statement of the individual's country of citizenship or a
19 statement of the individual's immigration status, respectively.
20 status, lawful or unlawful, of an individual pursuant to Sections
21 1373 and 1644 of Title 8 of the United States Code.

22 ~~885.12.~~

23 7284.12. The provisions of this act are severable. If any
24 provision of this act or its application is held invalid, that invalidity
25 shall not affect other provisions or applications that can be given
26 effect without the invalid provision or application.

27 SEC. 3. If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.

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

36 Because changes in federal immigration enforcement policies
37 require a statewide standard that clarifies the appropriate level
38 of cooperation between federal immigration enforcement agents

- 1 *and state and local governments as soon as possible, it is necessary*
- 2 *for this measure to take effect immediately.*

O