

Introduced by Senator De León
(Principal coauthor: Senator Pan)
(Principal coauthor: Assembly Member 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, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as introduced, 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, 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 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 would require the Attorney General, in consultation with appropriate stakeholders, to publish model policies for use by those entities for those purposes.

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.

Vote: 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. Section 11369 of the Health and Safety Code is
- 2 repealed.
- 3 ~~11369. When there is reason to believe that any person arrested~~
- 4 ~~for a violation of Section 11350, 11351, 11351.5, 11352, 11353,~~
- 5 ~~11355, 11357, 11359, 11360, 11361, 11363, 11366, 11368 or~~
- 6 ~~11550, may not be a citizen of the United States, the arresting~~
- 7 ~~agency shall notify the appropriate agency of the United States~~
- 8 ~~having charge of deportation matters.~~
- 9 SEC. 2. Chapter 8 (commencing with Section 885) is added
- 10 to Title 3 of Part 2 of the Penal Code, to read:

1 CHAPTER 8. COOPERATION WITH FEDERAL IMMIGRATION
2 AUTHORITIES
3

4 885. This chapter shall be known, and may be cited, as the
5 California Values Act.

6 885.2. The Legislature finds and declares the following:

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

11 (b) A relationship of trust between California's immigrant
12 community and state and local law enforcement agencies is central
13 to the public safety of the people of California.

14 (c) This trust is threatened when local law enforcement agencies
15 are entangled with federal immigration enforcement, with the result
16 that immigrant community members fear approaching police when
17 they are victims of, and witnesses to, crimes.

18 (d) This act seeks to protect the safety and constitutional rights
19 of the people of California, and to direct the state's limited
20 resources to matters of greatest concern to state and local
21 governments.

22 885.4. For purposes of this chapter, the following terms have
23 the following meanings:

24 (a) "Civil immigration warrant" means any warrant for a
25 violation of federal civil immigration law, and includes civil
26 immigration warrants entered in the National Crime Information
27 Center database.

28 (b) "Federal immigration authority" means any officer,
29 employee, or person otherwise paid by or acting as an agent of
30 United States Immigration and Customs Enforcement or any
31 division thereof, or any other officer, employee, or person
32 otherwise paid by or acting as an agent of the United States
33 Department of Homeland Security who is charged with
34 immigration enforcement.

35 (c) "Hold request," "notification request," and "local law
36 enforcement agency" have the same meaning as provided in Section
37 7283 of the Government Code.

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

10 (f) "School police and security departments" includes police
11 and security departments of the California State University,
12 California Community Colleges, schools, and school districts.

13 (g) "State agency" has the same meaning as provided in Section
14 11000 of the Government Code.

15 885.6. (a) State and local law enforcement agencies and school
16 police and security departments shall not do any of the following:

17 (1) Use agency or department moneys, facilities, property,
18 equipment, or personnel to investigate, detain, detect, report, or
19 arrest persons for immigration enforcement purposes, including,
20 but not limited to, any of the following:

21 (A) Responding to hold, notification, and transfer requests from
22 federal immigration authorities.

23 (B) Responding to requests for nonpublicly available personal
24 information about an individual, including, but not limited to,
25 information about the person's release date, home address, or work
26 address for immigration enforcement purposes.

27 (C) Making arrests based on civil immigration warrants.

28 (D) Giving federal immigration authorities access to interview
29 individuals in agency or department custody for immigration
30 enforcement purposes.

31 (E) 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) Use agency or department moneys, facilities, property,
35 equipment, or personnel to investigate, enforce, or assist in the
36 investigation or enforcement of any federal program requiring
37 registration of individuals on the basis of race, gender, sexual
38 orientation, religion, or national or ethnic origin.

39 (3) Make agency or department databases available to anyone
40 or any entity for the purpose of immigration enforcement or

1 investigation or enforcement of any federal program requiring
2 registration of individuals on the basis of race, gender, sexual
3 orientation, religion, immigration status, or national or ethnic
4 origin. Any agreements in existence on the date that this chapter
5 becomes operative that make any agency or department database
6 available in conflict with the terms of this paragraph are terminated
7 on that date.

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

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

19 (c) Notwithstanding any other law, in no event shall state or
20 local law enforcement agencies or school police or security
21 departments transfer an individual to federal immigration
22 authorities for purposes of immigration enforcement or detain an
23 individual at the request of federal immigration authorities for
24 purposes of immigration enforcement absent a judicial warrant.
25 This subdivision does not limit the scope of subdivision (a).

26 885.8. (a) In order to ensure that eligible individuals are not
27 deterred from seeking services or engaging with state agencies,
28 all state agencies shall review their confidentiality policies and
29 identify any changes necessary to ensure that information collected
30 from individuals is limited to that necessary to perform agency
31 duties and is not used or disclosed for any other purpose. Any
32 necessary changes to those policies shall be made as expeditiously
33 as possible, consistent with agency or department procedures.

34 (b) The Attorney General, in consultation with the appropriate
35 stakeholders, shall publish model policies for public schools,
36 hospitals, and courthouses to ensure that all public schools,
37 hospitals, and courthouses remain safe and accessible to all
38 California residents, regardless of immigration status. All public
39 schools, hospitals, and courthouses shall establish and make public

1 policies that limit immigration enforcement on their premises to
2 the fullest extent possible consistent with federal and state law.

3 885.10. Nothing in this chapter prohibits any state or local
4 agency from sending to, or receiving from, any local, state, or
5 federal agency, information regarding an individual's citizenship
6 or immigration status. "Information regarding an individual's
7 citizenship or immigration status," for purposes of this section,
8 means a statement of the individual's country of citizenship or a
9 statement of the individual's immigration status, respectively.

10 885.12. The provisions of this act are severable. If any
11 provision of this act or its application is held invalid, that invalidity
12 shall not affect other provisions or applications that can be given
13 effect without the invalid provision or application.

14 SEC. 3. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

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21 CORRECTIONS:

22 Heading—Line 3.

23 Text—Page 3.
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