

Introduced by Senator Gonzalez

December 16, 2024

An act to add Section 234.8 to the Education Code, and to amend Section 7284.6 of the Government Code, relating to immigration enforcement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as introduced, Gonzalez. Immigration enforcement: schoolsites: prohibitions on access, sharing information, and law enforcement collaboration.

Existing law prohibits, except as required by state or federal law or as required to administer a state- or federally supported educational program, school officials and employees of a school district, county office of education, or charter school from collecting information or documents regarding citizenship or immigration status of pupils or their family members.

This bill would prohibit school districts, county offices of education, or charter schools and their personnel from granting a United States Immigration and Customs Enforcement officer, or other federal official engaging in immigration related investigation or enforcement, permission to access a school campus without a judicial warrant. The bill would require a local educational agency and its personnel, to the extent possible, to have the denial of permission for access witnessed and documented. The bill would also prohibit a local educational agency and its personnel from disclosing or providing, in writing, verbally, or in any other manner, the education records of or any information about a pupil, pupil's family and household, school employee, or teacher to a United States Immigration and Customs Enforcement officer, or any

other federal official engaging in immigration related investigation or enforcement, without a judicial warrant, and regarding a pupil's educational records or personal information, without the written consent of the pupil's parent or legal guardian. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

Existing law, the California Values Act, generally prohibits California law enforcement agencies from investigating, interrogating, detaining, detecting, or arresting persons for immigration enforcement purposes. Existing law provides certain limited exceptions to this prohibition, including transfers of persons pursuant to a judicial warrant and providing certain information to federal authorities regarding serious and violent felons in custody.

This bill would prohibit California law enforcement agencies from collaborating with, or providing any information about a pupil, pupil's family and household, school employee, or teacher in writing, verbally, or in any other manner, to immigration authorities regarding proposed or currently underway immigration enforcement actions when the actions could be or are taking place within a radius of one mile of any schoolsite. To the extent this bill would impose additional duties on local law enforcement agencies or officials, the 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Immigrant families are facing increased threats of
- 4 deportation.

1 (2) According to estimates as recent as 2022, 46 percent of
2 California’s 9 million children are part of immigrant families, 1
3 in 5 California children live in mixed-status families, and 93
4 percent of children in mixed-status families are United States
5 citizens.

6 (3) California schools report that United States Immigration
7 and Customs Enforcement agents have targeted and detained
8 pupils’ parents as they transport the pupils to or from school.

9 (4) A report by the United Nations Educational, Scientific, and
10 Cultural Organization found that in the United States, deportation
11 fears have an impact on school attendance.

12 (5) The United Nations Educational, Scientific, and Cultural
13 Organization found that the fear is exacerbated if schools allow
14 Immigration and Customs Enforcement agents to search the
15 facilities or collect immigration information on pupils.

16 (6) A report by the California Advisory Committee to the United
17 States Commission on Civil Rights found that an increase in
18 families’ fear of deportation has a “chilling effect on education
19 for undocumented children and children of undocumented parents,”
20 resulting in decreased school attendance and school funding, which
21 is intended to support all pupils.

22 (7) Studies have also shown strong associations between
23 increased immigration enforcement and increased absenteeism for
24 Latinx pupils and children from immigrant families. This research
25 also demonstrated that deportation threats have many effects on
26 the academic success of Latinx pupils and pupils from immigrant
27 families, including difficulties with concentration in school, lower
28 achievement in mathematics, repeated grade levels, and an increase
29 in dropout rates in some areas where intense immigration
30 enforcement action takes place.

31 (8) Current law guarantees that all children have a right to free
32 public education, regardless of their immigration status, and a right
33 to be in a public school learning environment that is free of
34 discrimination, harassment, bullying, violence, or intimidation
35 based on ethnicity, shared ancestry, or national origin.

36 (9) The California Constitution provides all pupils and school
37 personnel, regardless of immigration status, the inalienable right
38 to attend campuses that are safe, secure, and peaceful.

(10) Increases in school absenteeism cause school revenue to decline in California, where school funding is connected to pupil attendance.

(b) Therefore, it is the intent of the Legislature to do all of the following:

(1) Declare that California must take action to protect California pupils and ensure that guarantees in the law providing pupils with an education regardless of their immigration status are followed.

(2) Protect needed school revenue that will be diminished as a result of immigration enforcement threats on or near school campuses. These deportation threats cause families, including families of citizens of the United States, to be afraid to send their pupils to school, thereby reducing school revenue and preventing pupils of all backgrounds from obtaining a quality education.

(3) Assure families that California schools will not cooperate with United States Immigration and Customs Enforcement officials who are or plan to be on or near a schoolsite. Pupils' safety, well-being, and access to education are paramount. It is also critical to preserve school funding in the face of declining enrollment and other factors that reduce school revenue. By refraining from cooperating with Immigration and Customs Enforcement officials who seek to access school campuses and communities surrounding school campuses, California will safeguard pupils, families, and school employees, and preserve schools' attendance-based revenue.

SEC. 2. Section 234.8 is added to the Education Code, immediately following Section 234.7, to read:

234.8. (a) (1) A local educational agency and its personnel shall not grant a United States Immigration and Customs Enforcement officer, or other federal official engaging in immigration related investigation or enforcement, permission to access a school campus without a judicial warrant.

(2) A local educational agency and its personnel shall, to the extent possible, have the denial of permission for access pursuant to paragraph (1) witnessed and documented.

(b) A local educational agency and its personnel shall not disclose or provide in writing, verbally, or in any other manner, the education records of or any information about a pupil, pupil's family and household, school employee, or teacher to a United States Immigration and Customs Enforcement officer, or any other federal official engaging in immigration related investigation or

1 enforcement, without a judicial warrant and, regarding a pupil's
2 education records or personal information, without the written
3 consent of the pupil's parent or legal guardian.

4 (c) For purposes of this section, "local educational agency"
5 means a school district, county office of education, or charter
6 school.

7 SEC. 3. Section 7284.6 of the Government Code is amended
8 to read:

9 7284.6. (a) California law enforcement agencies shall not:

10 (1) Use agency or department moneys or personnel to
11 investigate, interrogate, detain, detect, or arrest persons for
12 immigration enforcement purposes, including any of the following:

13 (A) Inquiring into an individual's immigration status.

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

15 (C) Providing information regarding a person's release date or
16 responding to requests for notification by providing release dates
17 or other information unless that information is available to the
18 public, or is in response to a notification request from immigration
19 authorities in accordance with Section 7282.5. Responses are never
20 required, but are permitted under this subdivision, provided that
21 they do not violate any local law or policy.

22 (D) Providing personal information, as defined in Section 1798.3
23 of the Civil Code, about an individual, including, but not limited
24 to, the individual's home address or work address unless that
25 information is available to the public.

26 (E) Making or intentionally participating in arrests based on
27 civil immigration warrants.

28 (F) Assisting immigration authorities in the activities described
29 in Section 1357(a)(3) of Title 8 of the United States Code.

30 (G) Performing the functions of an immigration officer, whether
31 pursuant to Section 1357(g) of Title 8 of the United States Code
32 or any other law, regulation, or policy, whether formal or informal.

33 (2) Place peace officers under the supervision of federal agencies
34 or employ peace officers deputized as special federal officers or
35 special federal deputies for purposes of immigration enforcement.
36 All peace officers remain subject to California law governing
37 conduct of peace officers and the policies of the employing agency.

38 (3) Use immigration authorities as interpreters for law
39 enforcement matters relating to individuals in agency or department
40 custody.

1 (4) Transfer an individual to immigration authorities unless
2 authorized by a judicial warrant or judicial probable cause
3 determination, or in accordance with Section 7282.5.

4 (5) Provide office space exclusively dedicated for immigration
5 authorities for use within a city or county law enforcement facility.

6 (6) Contract with the federal government for use of California
7 law enforcement agency facilities to house individuals as federal
8 detainees for purposes of civil immigration custody, except
9 pursuant to Chapter 17.8 (commencing with Section 7310).

10 (b) Notwithstanding the limitations in subdivision (a), this
11 section does not prevent any California law enforcement agency
12 from doing any of the following that does not violate any policy
13 of the law enforcement agency or any local law or policy of the
14 jurisdiction in which the agency is operating:

15 (1) Investigating, enforcing, or detaining upon reasonable
16 suspicion of, or arresting for a violation of, Section 1326(a) of
17 Title 8 of the United States Code that may be subject to the
18 enhancement specified in Section 1326(b)(2) of Title 8 of the
19 United States Code and that is detected during an unrelated law
20 enforcement activity. Transfers to immigration authorities are
21 permitted under this subsection only in accordance with paragraph
22 (4) of subdivision (a).

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

29 (3) Conducting enforcement or investigative duties associated
30 with a joint law enforcement task force, including the sharing of
31 confidential information with other law enforcement agencies for
32 purposes of task force investigations, so long as the following
33 conditions are met:

34 (A) The primary purpose of the joint law enforcement task force
35 is not immigration enforcement, as defined in subdivision (f) of
36 Section 7284.4.

37 (B) The enforcement or investigative duties are primarily related
38 to a violation of state or federal law unrelated to immigration
39 enforcement.

1 (C) Participation in the task force by a California law
2 enforcement agency does not violate any local law or policy to
3 which it is otherwise subject.

4 (4) Making inquiries into information necessary to certify an
5 individual who has been identified as a potential crime or
6 trafficking victim for a T or U Visa pursuant to Section
7 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States
8 Code or to comply with Section 922(d)(5) of Title 18 of the United
9 States Code.

10 (5) Giving immigration authorities access to interview an
11 individual in agency or department custody. All interview access
12 shall comply with requirements of the TRUTH Act (Chapter 17.2
13 (commencing with Section 7283)).

14 *(c) Notwithstanding the exceptions in subdivision (b), California*
15 *law enforcement agencies shall not collaborate with, or provide*
16 *any information about a pupil, pupil's family and household, school*
17 *employee, or teacher in writing, verbally, or in any other manner,*
18 *to immigration authorities regarding proposed or currently*
19 *underway immigration enforcement actions when the actions could*
20 *be or are taking place within a radius of one mile of a schoolsite.*

21 ~~(e)~~

22 (d) (1) If a California law enforcement agency chooses to
23 participate in a joint law enforcement task force, for which a
24 California law enforcement agency has agreed to dedicate
25 personnel or resources on an ongoing basis, it shall submit a report
26 annually to the Department of Justice, as specified by the Attorney
27 General. The law enforcement agency shall report the following
28 information, if known, for each task force of which it is a member:

29 (A) The purpose of the task force.

30 (B) The federal, state, and local law enforcement agencies
31 involved.

32 (C) The total number of arrests made during the reporting period.

33 (D) The number of people arrested for immigration enforcement
34 purposes.

35 (2) All law enforcement agencies shall report annually to the
36 Department of Justice, in a manner specified by the Attorney
37 General, the number of transfers pursuant to paragraph (4) of
38 subdivision (a), and the offense that allowed for the transfer
39 pursuant to paragraph (4) of subdivision (a).

(3) All records described in this subdivision shall be public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

~~(d)~~

(e) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's internet website.

~~(e)~~

(f) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

~~(f)~~

1 (g) Nothing in this section shall prohibit a California law
2 enforcement agency from asserting its own jurisdiction over
3 criminal law enforcement matters.

4 SEC. 4. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

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

13 To ensure that schools continue to provide children and their
14 families guaranteed access to school campuses without fear of
15 deportation, harassment, or intimidation by Immigration and
16 Customs Enforcement officials and to retain critically needed
17 attendance-based funding, it is necessary that this act take effect
18 immediately.