

## SB 54 (de León) – The California Values Act: Background on Bill Provisions

Types of immigration enforcement addressed by SB 54	Status Quo Under Federal Law and California’s TRUST Act	Changes to California law under SB 54 (as amended)	Background on Need for SB 54’s Provisions
Arrests for civil violations of immigration law.	Prohibited.	Prohibited.	<p>It is unconstitutional for police and sheriffs to make civil immigration arrests. <i>See Arizona v. United States</i>, 132 S.Ct. 2494 (2012) (holding state law directing police to make civil immigration arrests pre-empted).</p> <p>Local involvement in civil immigration enforcement—including asking people about their immigration status—also threatens public safety because immigrant victims and witnesses to crime will be more afraid to come forward. In fact, police departments have reported a decrease in immigrant victims coming forward to report domestic violence and sexual assault because of the climate of fear created by the Trump administration’s anti-immigrant rhetoric and policies. “In Los Angeles this year, reports of domestic violence among Latinos have dropped by 10 percent and reports of sexual assault by 25 percent from a year ago, declines that Charlie Beck, the chief of the Police Department, said were likely due to fear of the federal government. Dozens of service providers and lawyers interviewed said immigrant women were deciding not to report abuse or press charges.” <i>See</i> Jennifer Medina, “Too Scared to Report Sexual Abuse. The Fear: Deportation,” <i>NY Times</i>, April 30, 2017 at <a href="https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html">https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html</a>. <i>See also</i> N.Y. State Office of the Attorney General and Office of the Attorney General of California, et. al., “Setting the Record Straight on Local Involvement in Federal Civil Immigration Enforcement: The Facts and the Laws,” May 2017, at <a href="https://ag.ny.gov/sites/default/files/setting_the_record_straight.pdf">https://ag.ny.gov/sites/default/files/setting_the_record_straight.pdf</a> (describing public safety reasons for limiting civil immigration enforcement); “Major Cities Chiefs Association, Police Chiefs from Nation’s Major Cities Object to Legislative Proposals Requiring Local Police to Enforce Federal Immigration Law,” at <a href="http://democrats-judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/MCCAPC130821.pdf">http://democrats-judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/MCCAPC130821.pdf</a>.</p>

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Asking about immigration status.	Generally permitted.  (Policies vary by county, with some jurisdictions imposing limitations).	Prohibited.	Same as above.
Arrests for violations of criminal immigration laws that criminalize presence in, work in, or entry into U.S. (ex. unlawful entry, unlawful reentry).	Generally permitted.	Prohibited except that:  Local law enforcement (LEAs) may arrest a person for unlawful re-entry following conviction for an aggravated felony offense if the unlawful re-entry is detected during the course of an unrelated law enforcement activity and if the person arrested also has a prior violent felony conviction.	Federal criminal immigration laws are just as outdated and unjust as civil immigration laws. Federal laws that criminalize presence, work, and entry of undocumented immigrants are essentially status crimes. These laws criminalize all undocumented immigrants simply because they are undocumented and trying to support their families. Local law enforcement have the discretion to choose not to engage in arrests for criminal immigration law violations.  However, Local Enforcement Agencies (LEAs) in a dozen cities in California have policies that encourage officers to racially profile immigrants for violations of criminal immigration laws, including considering whether individuals have limited English proficiency. See James Queally, "Police departments say they don't enforce immigration laws. But their manuals say something different, <i>LA Times</i> , April 12, 2017, at <a href="http://www.latimes.com/local/lanow/la-me-ln-california-police-immigration-enforcement-20170412-story.html">http://www.latimes.com/local/lanow/la-me-ln-california-police-immigration-enforcement-20170412-story.html</a> .

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Some LEAs regularly use criminal immigration enforcement as a loophole to get around limitations imposed on their participation in civil immigration enforcement. For example, when Travis County, Texas, instituted a ban on compliance with civil immigration holds, the local U.S. Attorney simply replaced the holds with criminal warrants for unlawful entry. *See* “Federal warrants issued for undocumented Travis Co. inmates,” Feb. 6, 2017, at <http://keyetv.com/news/local/federal-warrants-issued-for-undocumented-travis-co-inmates>. In Maricopa County, Arizona, infamous former Sheriff Joe Arpaio turned to criminally prosecuting undocumented immigrants for unauthorized work when his civil immigration enforcement authority was cut off. *See, e.g.,* Megan Cassidy, “MCSO raids decline over the past year,” *Arizona Republic*, Feb. 3, 2014, at <http://archive.azcentral.com/community/phoenix/articles/20140201mcsoraiddeclineoverpastyear.html> (“Workplace raids and arrests on suspicion of identity theft are among the Sheriff’s Office’s few remaining avenues for illegal-immigration enforcement.”)

Attorney General Sessions recently issued a memo that directs DOJ district offices throughout the country to prioritize the prosecution of immigrants for criminal immigration violations. *See* Jeff Sessions, “Memo: Renewed Commitment to Immigration Enforcement, April 11, 2017, at <https://www.justice.gov/opa/speech/file/956856/download>; *see also* “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement, *Nogales, AZ, April 11, 2017*, at <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-announcing-department-justice-s-renewed> (“It is here, on this sliver of land, where we first take our stand against this filth.”) This Sessions’ memo has been roundly criticized as another Trump administration attack on immigrants. *See* Betsy Woodruff, “Prosecutor: Jeff Sessions’s New Immigration Plan Is ‘F\*cking Horrifying”” *Daily Beast*, April 12, 2017, at <http://www.thedailybeast.com/articles/2017/04/12/prosecutor-jeff-sessions-new-immigration-plan-is-f-cking-horrifying.html>.

For more information on the harms that result from enforcement of criminal immigration law, *see* Human Rights Watch, *Turning Migrants Into Criminals* (May 2013), at [https://www.hrw.org/sites/default/files/reports/us0513\\_ForUpload\\_2.pdf](https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_2.pdf).

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Acting as immigration officers through 287(g) agreements.	Generally permitted on a county-by-county basis upon approval by the board of supervisors. Orange County is the only California county with a current 287(g) agreement.	Prohibited.	<p>The 287(g) program—which was the original source of authority for Sheriff Joe Arpaio’s immigration raids—was roundly criticized by the U.S. Government Accountability Office, law enforcement groups, and immigrants’ rights and community advocates. <i>See, e.g.,</i> Capps, Randy, et. al., <i>Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement</i>, Migration Policy Institute (Jan. 2011) at <a href="http://www.migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement">http://www.migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement</a>.</p> <p>The program was phased out during the Obama Administration, after mounting evidence demonstrated that it encouraged racial profiling by LEAs.</p> <p>Nonetheless, Trump’s Executive Order on interior enforcement calls for reinstatement of the 287(g) program and for the Secretary of Department of Homeland Security to “engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g).” <i>See</i>: “Executive Order: Enhancing Public Safety in the Interior of the United States,” Jan. 25, 2017, at <a href="https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united">https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united</a>. By prohibiting California LEAs from entering 287(g) agreements, SB 54 makes sure the next Sheriff Joe will not find a home in our state.</p>
Detaining people in local custody on ICE detainees.	California sheriffs generally do not respond to any ICE detainees. The TRUST Act prohibits local LEAs from complying with	Prohibited.	Immigration detainers expose LEAs to legal liability for violating the Fourth Amendment of the Constitution against unreasonable search and seizure and are unsound public policy—which is why Sheriffs throughout California currently refuse to comply with them and the Obama Administration originally announced its intention to end them. <i>See</i> Memo, DHS Secretary Johnson, <i>Secure Communities</i> (Nov. 20, 2014), at <a href="https://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf">https://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf</a> (recognizing “the increasing number of federal court decisions that hold that detainer-based detention by state and local law enforcement agencies violates the

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	<p>ICE detainers for people with minor criminal convictions. And most counties have instituted policies that go beyond the TRUST Act by prohibiting compliance with detainers entirely due to legal and public policy concerns.</p> <p>State prisons respond to all ICE detainer requests.</p>		<p>Fourth Amendment”); County Detainer Policies, at <a href="http://www.catrustact.org/countycity-policies.html">http://www.catrustact.org/countycity-policies.html</a>.</p> <p>Complying with immigration detainers also significantly taxes local financial resources. See Judith Greene, The Cost of Responding to Immigration Detainers in California, Justice Strategies (Aug. 22, 2012), at <a href="http://www.justicestrategies.org/sites/default/files/publications/Justice%20Strategies%20LA%20CA%20Detainer%20Cost%20Report.pdf">http://www.justicestrategies.org/sites/default/files/publications/Justice%20Strategies%20LA%20CA%20Detainer%20Cost%20Report.pdf</a> (estimating that, prior to the TRUST Act, California was spending \$65 million <u>annually</u> to comply with detainers).</p> <p>The federal government cannot make immigration detainers mandatory, as doing so would violate the Tenth Amendment. A report co-authored by California’s Attorney General makes clear that LEAs do not violate any law when they decline to fulfill an ICE detainer request. See N.Y. State Office of the Attorney General and Office of the Attorney General of California, et. al., Setting the Record Straight on Local Involvement in Federal Civil Immigration Enforcement: The Facts and the Laws (May 2017) at <a href="https://ag.ny.gov/sites/default/files/setting_the_record_straight.pdf">https://ag.ny.gov/sites/default/files/setting_the_record_straight.pdf</a></p> <p>By ending compliance with immigration detainers, SB 54 ensures California does not spend tens of millions of dollars annually on conduct that exposes jurisdictions to legal liability and fuels the Trump’s Administrations deportation machine.</p>
Helping ICE deport people from local jails by transferring them to ICE after they are eligible for	Generally permitted.	Prohibited unless authorized by a judicial warrant, or the person has been arrested for the criminal offense of unlawful	<p>In response to the increasing number of state and local policies limiting responses to immigration detainers, ICE changed its tactics. In addition to detainers, ICE now relies heavily on transfers, requests for private information about people’s home and work addresses, notification of people’s release dates, and access to LEA databases that contain home address and release date information to deport people.</p> <p>Each of these means of funneling a person from state or local custody directly into ICE’s</p>

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release from the jail.	(Policies vary by county, with some jurisdictions imposing limitations).	re-entry following conviction for an aggravated felony and has a prior conviction for a violent felony.	arms drives the same wedge between LEAs and the community as holding people on detainers. A prohibition on LEAs detaining someone for ICE means little in terms of fostering trust between the police and the community if the LEA will still transfer the person to ICE or give ICE the person's home address so ICE can pick them up and begin the process of permanently separating them from their family and community. <i>See, e.g., Darwin BondGraham, Advocates Criticize Alameda Sheriff's Cooperation with Immigration Enforcement, East Bay Express, Fe. 21, 2017, at</i>
Giving ICE private information about people's home addresses or other contact information.	Generally permitted.  (Policies vary by county, with some jurisdictions imposing limitations).	Prohibited.	<a href="http://www.eastbayexpress.com/SevenDays/archives/2017/02/21/advocates-criticize-alameda-sheriffs-cooperation-with-immigration-enforcement">http://www.eastbayexpress.com/SevenDays/archives/2017/02/21/advocates-criticize-alameda-sheriffs-cooperation-with-immigration-enforcement</a> ("Despite Alameda County's sanctuary status, the sheriff handed over information on 339 people to ICE since July 2015.")  Transfers, notifications, and disclosure of private information also undermine the spirit of the TRUST Act. The TRUST Act was intended to ensure that LEAs would not funnel people into deportation proceedings following minor arrests or convictions. However, because the TRUST Act only addressed immigration detainers, it leaves California's immigrant residents vulnerable to the transfers, notifications, and private information requests that make up the Trump Administration's current enforcement tactics. Moreover, in many cases, LEA responses to notification requests become de facto detainers because LEAs hold community members for a few extra hours or half a day to allow ICE time to pick them up.
Giving ICE access to local law enforcement databases.	Generally permitted.	Prohibited except that ICE can access information about a specific person's criminal history, including through CLETS.	Stories of California residents turned over to ICE due to transfers, notifications, and private information disclosure include:
Helping ICE deport people by notifying ICE when people are	Generally permitted.  (Policies vary by county, with some	Generally prohibited except:  * Police and Sheriffs may notify	Jose Alvarez, Long Beach Resident and father of six U.S. citizen children, including a former Marine, deported after being transferred to ICE by CSULB police. <i>See Ariana Sawyer and Kevin Flores, "Man held for deportation by CSULB PD because of 21-year-old drug offense," Daily 49er, April 25, 2016 at</i> <a href="http://d49erspecial.com/features/ice/">http://d49erspecial.com/features/ice/</a> .

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<p>being released from the State’s jails and prisons.</p>	<p>jurisdictions imposing limitations).</p>	<p>ICE of the release dates of people who are serving a sentence and have a previous violent felony conviction (Cal. Penal Code § 667.5(c)) or a serious felony conviction (as defined in Cal. Penal Code § 1192.7(c)) unless doing so would violate local policy.</p> <p>* State prisons must notify ICE of the release of people who are serving a sentence for a violent felony (Cal. Penal Code § 667.5(c)) or a serious felony (Cal Penal Code § 1192.7(c)).</p>	<p>Pedro Figueroa, a San Francisco father, was turned over to ICE after reporting his car stolen and going to the police to retrieve his car. The police notified ICE, who showed up at the police station to arrest him and take him into immigration custody. <i>See</i> Richard Gonzales, “Man Reports Car Stolen, Ends Up in Deportation Limbo,” NPR, Feb. 16, 2017, at <a href="http://www.npr.org/2016/02/16/465278302/the-curious-case-of-the-man-in-the-u-s-illegally-and-his-stolen-car">http://www.npr.org/2016/02/16/465278302/the-curious-case-of-the-man-in-the-u-s-illegally-and-his-stolen-car</a>.</p> <p>“Esperanza” a 42-year-old immigrant mother on her way to church in Mendota, a small city in California’s Central Valley, was stopped by police for having tinted windows. After several minutes, the officer released her, but not before calling ICE and providing ICE with her home address. <i>See</i> Jenny Medina and Jess Bidgood, “California Moves to Become ‘Sanctuary State,’ and Others Look to Follow,” NY Times, APRIL 10, 2017, at <a href="https://www.nytimes.com/2017/04/10/us/sanctuary-states-immigration.html">https://www.nytimes.com/2017/04/10/us/sanctuary-states-immigration.html</a>.</p> <p>Nan Hui, a Korean immigrant, mother, and domestic violence survivor, was detained by ICE upon her release from Yolo County Jail. <i>See</i> Frances Kai-Hwa Wang, “Single Mom, Nan-Hui Jo, Released From Jail, Detained by ICE,” <i>NBC News</i>, April 30 2015 at <a href="http://www.nbcnews.com/news/asian-america/single-mom-nan-hui-jo-released-jail-detained-ice-n351061">http://www.nbcnews.com/news/asian-america/single-mom-nan-hui-jo-released-jail-detained-ice-n351061</a>.</p>

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Participating in Joint Task forces with ICE.	Generally permitted.	<p>Permitted as long as the primary purpose of the task force is something other than immigration enforcement and the task force participation does not violate any local law or policy.</p> <p>Creates an oversight mechanism where LEAs participating in joint task forces must report basic information to the CA AG, who will issue a biannual public report listing joint task force operations along with the number of criminal and immigration arrests made in each.</p>	<p>Joint Task force operations are often immigration raids in disguise, as the Santa Cruz Police Department discovered in February of this year. <i>See, e.g.</i>, Michael Todd, “Santa Cruz police: Homeland Security misled city with ‘gang’ raids that were immigration related,” <i>The Mercury Times</i>, Feb. 23, 2017, at <a href="http://www.mercurynews.com/2017/02/23/santa-cruz-police-homeland-security-raids-immigration-status-not-gang-related/">http://www.mercurynews.com/2017/02/23/santa-cruz-police-homeland-security-raids-immigration-status-not-gang-related/</a> (Santa Cruz Chief Vogel announced that his department will no longer work with ICE following a joint taskforce operation that turned into an ICE raid); David Noriega, “Under Trump, Sanctuary Cities May Not Be So Safe,” <i>Buzzfeed</i>, Dec. 8, 2016, at <a href="https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but-it?utm_term=.fpMD5wxYz5#.beEGyQjLvy">https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but-it?utm_term=.fpMD5wxYz5#.beEGyQjLvy</a> (describing joint LAPD-ICE operations).</p> <p>To ensure that Joint Task Force participation does not improperly entangle California LEAs in immigration raids, SB 54 provides common sense limitations and oversight mechanisms for Joint Task Force operations. This measure will bring a level of transparency and accountability into Joint Task Force participation that is currently lacking.</p>

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Using ICE or CBP as interpreters.	Generally permitted.	Prohibited.	<p>There are a myriad of problems associated with the use of ICE or CBP as interpreters, including turning routine traffic stops into deportations. For a detailed description of these problems, see Lisa Graybill, "Border Patrol Agents as Interpreters Along the Northern Border: Unwise Policy, Illegal Practice," Immigration Policy Center (Sept. 2002) at <a href="https://www.americanimmigrationcouncil.org/sites/default/files/research/borderpatrolagentsasinterpreters.pdf">https://www.americanimmigrationcouncil.org/sites/default/files/research/borderpatrolagentsasinterpreters.pdf</a>.</p>
Allowing ICE access to jails to identify, interview, and seek detention of individuals.	Generally permitted.	Prohibited unless authorized by a judicial warrant and done in accordance with the TRUTH Act.	<p>ICE's largest deportation program is the Criminal Alien Program (CAP). CAP, which has led to the deportation of more than half a million people between 2010 and 2013, works by allowing ICE officers physical access to local jails and prisons. Once inside, ICE reviews jail records and conducts interviews in an effort to find individuals who may be removable and pressure individuals into signing agreements that waive their rights to go before an immigration judge to fight their deportation. See ILRC, ICE's Criminal Alien Program (CAP), at <a href="https://www.ilrc.org/sites/default/files/resources/cap_guide_final.pdf">https://www.ilrc.org/sites/default/files/resources/cap_guide_final.pdf</a>.</p> <p>It is impossible to draw a bright line between California LEAs and ICE without ending California's participation in CAP. So long as ICE's CAP operations are allowed to continue in the State's jails, any arrest of an immigrant by a California LEA can lead to deportation.</p>

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<p>Immigration enforcement at sensitive locations, such as public schools, public libraries, health facilities, courthouses, Division of Labor Standards Enforcement facilities, and shelters.</p>	<p>Policies and practices vary by agency.</p>	<p>Requires public agencies to adopt model policies developed by the CA AG limiting assistance with immigration enforcement to the fullest extent possible that is consistent with federal and state law.</p>	<p>Even ICE recognizes that immigration enforcement and schools and hospitals is bad public policy. <i>See</i> John Morton, “Memo: Enforcement Actions at or Focused on Sensitive Locations,” Oct. 24 2011, at <a href="https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf">https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf</a>. But ICE’s current adherence to this Obama-era policy is in doubt.</p> <p>For example, Central Valley advocates report regular sightings of ICE at health clinics. In Los Angeles, a recent ICE arrest of a father dropping his daughter off at school sparked outrage from all corners. <i>See</i> Jennifer Medina, Deportation Arrest Highlights Tensions in Los Angeles on Immigration, NY Times, March 4, 2017, at <a href="https://www.nytimes.com/2017/03/04/us/los-angeles-deportation-immigration.html">https://www.nytimes.com/2017/03/04/us/los-angeles-deportation-immigration.html</a>.</p> <p>ICE also has been stalking community members at courthouses, including in Southern California, prompting California Supreme Court Justice Tani Cantil-Sakauye to write a letter to Attorney General Sessions and Homeland Security Secretary Kelly demanding that ICE end this practice. Justice Cantil-Sakauye warned that courthouse detentions discourage crime victims and defendants from “seeking justice and due process of law” at the courts and expressed concern “about the impact on public trust and confidence in our state court system.” <i>See</i>: Chief Justice Cantil-Sakauye Objects to Immigration Enforcement Tactics at California Courthouses, at <a href="http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses">http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses</a>; <i>see also</i> James Queally, “ICE agents make arrests at courthouses, sparking backlash from attorneys and state supreme court,” March 16, 2017, at <a href="http://www.latimes.com/local/lanow/la-me-ln-ice-courthouse-arrests-20170315-story.html">http://www.latimes.com/local/lanow/la-me-ln-ice-courthouse-arrests-20170315-story.html</a>. However, in their response to Justice Cantil-Sakauye, AG Sessions and Secretary Kelly refused to stop ICE enforcement at courthouses.</p> <p>Moreover, ICE’s policy is full of loopholes. It allows immigration enforcement at schools whenever previously approved by an Assistant Field Office Director. And it does not protect shelters, non-hospital health facilities, libraries, courthouses, or DLSE facilities.</p> <p>SB 54 would provide more robust protections to ensure that all California residents—regardless of immigration status—feel safe in sensitive locations.</p>
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