

SB 54 (de León) – California Values Act

Legal Issues 101

QUESTION: Can California place limits on how its local law enforcement officers and departments interact with federal immigration enforcement?

ANSWER: YES

- Local law enforcement agencies (LEAs) that **choose to limit involvement in federal immigration enforcement** are **acting lawfully** and **protecting their jurisdictions from legal liability**.
- Hundreds of cities and counties across the United States, many with significant immigrant communities, have adopted policies that limit participation in immigration enforcement.
- **Federal law does not require that state and local governments or LEAs engage in immigration enforcement.**
- The **Tenth Amendment of the U.S. Constitution limits the federal government’s ability to mandate state and local participation in federal programs**, including participation in immigration enforcement.
- The **U.S. Supreme Court** has held that the **federal government cannot compel states to enact or administer federal programs, or compel state employees to participate.**
- **Source:** New York 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 https://ag.ny.gov/sites/default/files/setting_the_record_straight.pdf

QUESTION: What is 8 U.S.C. 1373 and how does it apply to SB 54?

ANSWER: 8 USC 1373 is a narrow federal statute that prohibits restrictions on the exchange of information regarding citizenship or immigration status by federal, state, and local government entities and officials.
SB 54 does not violate 8 U.S.C. 1373.

- The **text of SB 54 explicitly states** that it “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 pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.”
- Federal courts have held that Section 1373 does not apply to the exchange of information other than citizenship or immigration status information (such as release date information) and that it does not apply to other forms of LEA collaboration with ICE (such as detainer or transfer requests).
- LEAs that **decline to detain individuals** pursuant to ICE detainer requests **do not violate any law or statute**. To the contrary, LEAs are complying with Fourth Amendment Constitutional protections against unreasonable search and seizure when they decline ICE detainers because these are voluntary requests that are not based on probable cause and have not been issued by a judge.

QUESTION: Would California lose federal funding if it passes SB 54?

ANSWER: **Because SB 54 does not violate 8 U.S.C. 1373, any withholding of federal funds would be improper.**

- President Trump’s January 2017 Executive Order (EO) authorized the Department of Homeland Security Secretary to designate a jurisdiction as a “sanctuary jurisdiction.”
- The EO stated that entities that “willfully refuse to comply with 8 U.S.C. 1373” are sanctuary jurisdictions.
- It also suggested that entities that do not respond to ICE detainers may be designated as sanctuary jurisdictions.
- The EO stated that sanctuary jurisdictions shall not be eligible to receive some or all federal funds.
- **The Federal District Court of the Northern District of California issued a national preliminary injunction against this section of the EO.** The Court found that this section of the EO exceeded the President’s authority and violated constitutional limitations on the use of the federal spending power.