



MALDEF

Mexican American Legal Defense and Educational Fund

SB4 Appeals Court Decision: Sept. 25, 2017

What is the status of SB4 after this court decision?

- SB4 banned local officials and employees from criticizing current immigration enforcement, including SB4 itself. The part of SB4 that restricted free speech is blocked. Local officials and employees can criticize SB4, and criticize current immigration enforcement, without fear of being punished.
- SB4 tried to give local police officers authority to enforce immigration law. The court decided that cities and counties can adopt policies that limit police officers from asking immigration questions and assisting ICE. Although cities and counties cannot ban their officers from asking immigration questions or assisting ICE, localities can set priorities and adopt other policies that limit these activities.
- SB4 required local jails to comply with all ICE detainer requests (also known as immigration holds). The court decided that SB4 “does not require detention pursuant to every ICE detainer request.” The court explained that a jail should cooperate in a way that follows the law and ICE practice. This means that a jail can refuse a detainer request if cooperation would create a legal problem or if the detainer does not follow ICE practice.

Where are we in this case?

The court decision of September 25, 2017 is temporary. The case is still in the Fifth Circuit Court of Appeals and there will be further arguments during the week of November 6, 2017. We can expect the next court decision after early November.

What does all of this mean?

Texas does not have the SB4 that it wanted. The courts have blocked some parts of SB4 and scaled back other parts.

- Local officials and employees can criticize current immigration enforcement and debate alternative policies without fear of punishment;
- Cities and counties can adopt policies that limit immigration questioning and enforcement by their police officers;
- Local jails cannot be forced to comply with 100% of ICE detainers. Jails must review detainers and can refuse detainers for legal reasons.

What can we do to help?

You can make your voice heard in the court by joining a “friend of the court” (*amicus*) legal brief before October 26, 2017. You can also advocate in your city and county for local policies that promote public safety and community trust.

Who can I contact at MALDEF?

For more information about SB4 or your legal rights, contact MALDEF Staff Attorney Fátima Menéndez at fmendez@maldef.org