



MALDEF

Mexican American Legal Defense and Educational Fund

SB4 Appeals Court Decision: March 13, 2018

What did the Fifth Circuit Court decide?

On March 13, 2018, the U.S. Court of Appeals for the Fifth Circuit issued its ruling on whether SB4 should be allowed to take effect while the lawsuit moves through court. Most of SB4 is in effect today. The Fifth Circuit decision allows most of SB4 to remain in effect, but keeps part of SB4 blocked. In addition, the Fifth Circuit stated several important limitations on SB4.

What is the status of SB4 after the Fifth Circuit decision?

- Elected officials are allowed to criticize SB4 and speak favorably about immigration reform without the fear of being punished. The Fifth Circuit ruled that SB4's prohibition on speech about immigration is likely to be unconstitutional.
- Cities and counties can adopt immigration-neutral policies that preserve scarce local resources. This means that cities and counties can direct their police officers to focus on local priorities such as keeping the community safe and maintaining community trust.
- Cities and counties cannot bar their police officers and employees from assisting or cooperating with federal agents on immigration enforcement. However, local officials can only cooperate with federal agents when federal agents ask for help. Local officials cannot act on their own. Local officials also must act under federal direction and supervision.
- Cities and counties cannot prohibit their employees or local police officers from questioning a detained person's immigration status. However, local officers must still comply with the Constitution. For example, a local officer cannot decide on his own to arrest an individual simply for being undocumented. Local officers cannot stop individuals because of their race or detain individuals for prolonged periods of time.
- SB4's mandate to comply with ICE detainers remains in effect. However, jail officers must review detainers and can refuse a detainer if they know a detainee is authorized to be present in the United States or if the detainer does not follow ICE rules.

Where are we in this case?

The Fifth Circuit's March 13, 2018 decision on the preliminary injunction is temporary. The district court will make a decision in the case after a trial. The March 13, 2018 decision from the Fifth Circuit remains in effect until a new court ruling is issued.

What can I do to help?

Contact MALDEF Staff Attorney Fátima Menéndez at fmendez@maldef.org with any reports of local officers making immigration arrests or a jail detaining a person after that person has posted bail.