



# CRIMINALIZING IMMIGRATION: THE INFLUENCE OF SB 4, TEXAS'S REGRESSIVE STATE DEPORTATION LAW

Texas anti-immigrant laws are trickling to other states, in this explainer we track some of these troubling trends.

OCTOBER 2024

## INTRODUCTION

Over the past few years, Texas has led the nation in cruel attempts to criminalize and punish immigrants and noncitizens. The infamous Texas state deportation law, [SB 4](#) (hereinafter “Texas SB 4”)<sup>1</sup> is an integral part of the dangerous and unconstitutional [Operation Lone Star](#) (“OLS”), and is one of the most controversial and extreme pieces of legislation that targets immigrants and noncitizens in the United States. Texas, being dissatisfied with our already incredibly punitive and criminalized immigration system, enacted Texas SB 4 to seize power and create its own, even harsher, immigration system within the state’s criminal courts. With this, Texas can enact its own regime of state violence on immigrants and communities of color.

Advocates are concerned that Texas SB 4 was specifically crafted to directly challenge the Supreme Court case [Arizona v. United States \(2012\)](#), which has prevented states from taking federal immigration law into their own hands. Under the U.S. Constitution’s Supremacy Clause, enforcement of all federal law—including immigration law—falls directly within the jurisdiction of the federal government. In other terms, immigration laws are commonly regarded as being within the purview of sovereign nations, not the individual states or regions that make up a particular

<sup>1</sup> There are three immigration-related “SB 4” laws in Texas which have different legislative goals: [SB 4](#) (signed into law in 2023, and the focus of this brief, creating the state crimes of illegal entry, illegal reentry and refusal to be deported), [SB 4](#) (signed into law in 2023, regarding prosecuting drivers and expanding the state crime of smuggling of persons), and [SB 4](#) (signed into law in 2017, outlawing Texas “sanctuary” jurisdictions). For more on SB 4 Smuggling of Persons, see <https://www.ilrc.org/resources/driver-prosecutions-immigrants-and-smuggling-texas>

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nation. In Texas and states that have followed suit in passing similar anti-immigrant laws, this blatant challenge to Arizona is of particular concern because these states are enacting laws that are largely motivated by racial animus and a willingness to target communities of color.

In 2024, state legislatures across the country have proposed bills that further expand the already vast and punishing criminal-legal system by requiring local law enforcement to carry out federal immigration enforcement and creating new crimes that punish the act of crossing into a state without legal status. Unless stopped, Texas SB 4 and its ilk could herald a regressive wave of anti-immigrant state legislation that will endanger noncitizens and U.S. citizens across the country—to a greater extent than occurred in 2010 after the passage of Arizona’s infamous racial profiling law, SB 1070<sup>2</sup>. However, there is a prime opportunity to stop Texas SB 4 and its copycats in their tracks: after nationwide organizing, protests, and federal intervention, the Supreme Court struck down most of SB 1070’s provisions. As a result of the strong showing of opposition to SB 1070, other states were deterred from pursuing similarly virulent anti-immigrant legislation. Despite vocally anti-immigrant elected officials and their policies, advocates in Texas have been resisting both OLS and Texas SB 4, creating a playbook by which advocates in other states can stop the potential harms of Texas SB 4 copycat laws in their tracks.

### ***THREATS POSED BY TEXAS SB 4***

Texas SB 4 poses significant threats to all noncitizens and U.S. citizens residing in Texas. Among other provisions, Texas SB 4:

► **Creates three new state crimes that can only be committed by noncitizens:**

**Illegal Entry From Foreign Nation, Illegal Reentry by Certain [Noncitizens],<sup>3</sup>**

<sup>2</sup> Arizona’s [SB 1070](#), also referred to as the “Show Me Your Papers” law, was commonly described as one of the most draconian anti-immigrant laws in the country at the time of its passing in 2010. Among other things, SB 1070 required police to determine the immigrant status of someone arrested or detained when there was a “reasonable suspicion” they are not present in the United States with legal status. In 2012, the Supreme Court nullified three of the law’s four provisions, either because they operated in areas controlled by federal policy or because they interfered with federal immigration enforcement efforts. Unfortunately, the Court upheld the “Show Me Your Papers” provision. See <https://www.law.georgetown.edu/immigration-law-journal/in-print/volume-31-issue-3-spring-2017/arizonas-anti-immigration-law-and-the-pervasiveness-of-racial-profiling/>; <https://www.aclu.org/press-releases/supreme-court-reinstates-arizona-show-me-your-papers-law-strikes-down-three-other>; <https://www.nilc.org/issues/immigration-enforcement/along-racial-lines-arizonas-sb1070/>.

<sup>3</sup> The statutory language of Texas SB 4 and other state laws discussed in this brief use the pejorative, dehumanizing term “alien.” The ILRC

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**and Refusal to Comply with Order to Return to a Foreign Nation.** “Illegal Entry from a Foreign Nation” starts as a misdemeanor offense with up to 180 days imprisonment and can be enhanced to a state felony for repeat offenders. “Illegal Reentry” begins as a misdemeanor offense with up to 1 year of imprisonment and can be enhanced to a state felony if the person has certain other criminal convictions on their record before being charged with “Illegal Reentry.” “Refusal to Comply” is a felony charge with up to 20 years of imprisonment. In most cases, people who violate the law will be “returned” to Mexico regardless of their country of origin.

- **Creates new criminal procedures for state ordered deportations: a state magistrate or state judge-not a federal immigration judge-may offer a form of voluntary deportation at an early stage in a criminal case, and dismiss the criminal charge(s). However, if a person is criminally convicted, Texas SB 4 requires state magistrates or state judges to enter a mandatory deportation order.** To avoid a conviction, the person must agree to the state deportation order, and law enforcement must collect the person’s biometrics and cross reference their information within federal or state criminal databases. The state will transport the person to a Port of Entry along the U.S.-Mexico border and can monitor compliance with the state deportation order. If the person is convicted, their state deportation order will go into effect once they complete their criminal sentence. Importantly, removal under these provisions can occur in as little as 48 hours, long before most people obtain access to legal counsel.
- **Prevents all law enforcement officers, state officials, and contractors** from being found liable or penalized for lawsuits brought against them based on their enforcement of these new offenses and procedures.
- **Prevents state magistrates or state judges from placing anyone convicted of these new offenses on alternatives to incarceration,** including community

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recognizes and condemns the derogatory and xenophobic connotations of the word “alien,” and utilizes the term “noncitizen” throughout this brief in keeping with language modernization efforts that began within the immigrant rights movement and which were adopted by the Biden Administration in 2021. See <https://www.justice.gov/eoir/book/file/1415216/dl>.

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supervision, parole, or mandatory supervision.

- **Defies current ongoing immigration proceedings: prevents judges from setting aside (or “abating”) criminal prosecutions under the law because federal determination of a person’s immigration status is pending or will be initiated.**

This means people with a pending immigration application (asylum, temporary protected status, or U Visa application, etc.) can still be deported if prosecuted under the law. Texas SB 4 strips judges of their power to use their discretion, or consider other important case factors when determining if a person is guilty.

The dangers of Texas SB 4 are wide-ranging and frightening. Texas SB 4 would bring all Texans and those suspected of being noncitizens under the permanent threat of immediate detention by law enforcement and transportation to a Port of Entry, should they be suspected of illegal entry or reentry into the state of Texas. Life-changing legal decisions under Texas SB 4’s new criminal regime will be made by state judges, magistrates, and so-called peace officers who must now interpret highly complex, ever-changing immigration law to determine a person’s legal status. Many Texas law enforcement leaders have also voiced [skepticism](#) and [concern](#) over prioritizing their primary state and local duties, their [lack](#) of immigration training, the complex logistics and high costs of enforcing the law, and further fracturing relationships between law enforcement and communities. State judges and magistrates are not trained in immigration law, and Texas has no expertise or ability to oversee judges’ training or capacity to interpret immigration law. Indeed, former Immigration Judges and Appellate Immigration Judges issued a [statement](#) strongly opposing Texas SB 4 for these reasons.

Advocates believe Texas SB 4 will upend the established federal U.S. asylum system by creating a parallel, state-level system in Texas without the subject matter expertise to adjudicate cases or any protections for the most vulnerable people. Further, Texas SB 4 could worsen the state’s ongoing humanitarian crisis by using state resources to arrest noncitizens en masse and detain them in state jails and

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prisons. Texas SB 4 also encourages racial profiling and other types of discrimination: the law allows law enforcement officers to question and potentially arrest people they believe entered into Texas from Mexico (or from another country) without authorization and who they believe lack legal immigration status. Immigration and civil rights advocates, alongside the [Mexican Ministry of Foreign Affairs](#), are [concerned](#) that Texas SB 4 will [expose](#) Texas communities to “expressions of hate, discrimination and racial profiling.” Advocates warn this unchecked authority created under Texas SB 4 will represent carte blanche for Texas law enforcement and peace officers to target all people seen as foreign or “other,” which would inevitably be a disproportionate number of people of color. This danger is further reinforced through Texas SB 4 provisions that prevent state officials and police from being held accountable for any potential violations they commit by enforcing the laws.

### ***LITIGATION CHALLENGES TO TEXAS SB 4***

Texas SB 4 was set to go into effect on March 5, 2024. However, a complex maze of lawsuits have prohibited Texas SB 4 from being in effect at the time of this writing. In December 2023, the American Civil Liberties Union (“ACLU”), the ACLU of Texas, and the Texas Civil Rights Project (“TCRP”) [filed a lawsuit](#) on behalf of El Paso County and two immigrant rights organizations (Las Americas Immigrant Advocacy Center and American Gateways) requesting that Texas SB 4 be found unlawful and to prevent its enforcement. In January 2024, the U.S. Department of Justice (“DOJ”) also [sued](#) the state of Texas, making similar arguments that Texas SB 4 is unconstitutional because it interferes with federal immigration laws by granting Texas police the authority to enforce immigration law. These two lawsuits were eventually consolidated. Over the past seven months, federal courts—including the Supreme Court—have issued [dueling orders](#), alternatively allowing and disallowing Texas SB 4 from going into effect. At present, Texas SB 4 continues to be litigated and is not being enforced. During a February hearing in federal court, U.S. District Court Judge David Ezra [expressed concerns](#) about Texas SB 4 stating: “That [Texas SB 4] turns us from the United States

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of America into a confederation of states[.] That is the same thing the Civil War said you can't do." In fact, Texas Solicitor General Aaron Nielson—the attorney tasked with defending Texas SB 4—admitted in federal court that, “[T]o be fair, maybe Texas went too far.”

## **THE DAMAGE IS SPREADING: TEXAS SB 4 COPYCAT BILLS ENACTED INTO LAW**

As of this writing, five states have passed Texas SB 4 copycat bills into law: Georgia, Iowa, Louisiana, Oklahoma, and Tennessee. In a feat of callous absurdity, these state legislatures borrow statutory language and fear-mongering rhetoric from Texas—language that is significantly driven by Texas’s status as a border state—despite being states lacking land borders shared with any foreign country. Regardless of a state’s geographical status, attempting to wrest control from the federal government to target noncitizens is unjustifiable and dangerous.

### **GEORGIA’S HOUSE BILL 1105**

Georgia’s [House Bill 1105](#) (“HB 1105”) was signed into law in May 2024. HB 1105 is a sweeping law that requires a number of punitive, anti-immigrant actions from local jurisdictions and law enforcement agencies. HB 1105 mandates local law enforcement to apply to enter into [287\(g\) contracts](#) that deputize local law enforcement to enforce federal immigration law. HB 1105 mandates local law enforcement comply with [ICE detainer notices](#) (also known as “ICE holds”), which require law enforcement to hold people in criminal custody for 48 hours past the time they are scheduled to be released so that ICE can take custody of the individual. The law also prevents local officials from adopting policies to restrict compliance with ICE detainers. The law mandates the collection of DNA samples from individuals who are convicted of a felony or misdemeanor and are subject to an ICE detainer.

Among other provisions, HB 1105 mandates local law enforcement check the immigration status of individuals and to share such information with ICE, authorizes

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local law enforcement to transport noncitizens to nearby ICE or other federal facilities, authorizes local law enforcement to arrest noncitizens for violations of immigration law when “authorized by federal law,” provides immunity for officers from damages or liability when enforcing HB 1105, and penalizes any local jurisdictions that refuse to comply with HB 1105’s requirements. Finally, HB 1105 will require the Georgia Department of Corrections to aggregate data about individuals in its custody, including their immigration status, charged offenses, home countries of noncitizens, total number of noncitizens in custody, and much more.

### ***IOWA’S SENATE FILE 2340***

Iowa’s [Senate File 2340](#) (“SF 2340”) was signed into law in April 2024. SF 2340 tracks Texas SB 4 closely on all fronts, creating a new crime of “Illegal Reentry” that can only be committed by noncitizens. The crime is a misdemeanor but can be enhanced to a felony under certain circumstances, such as orders of removal based on criminal convictions for drugs. The law also allows Iowa state judges to dismiss charges and instead issue state orders of deportation, with identical requirements to those in Texas SB 4, and forces state judges to issue state orders of deportation upon conviction under SF 2340. SF 2340 indemnifies state government officials, law enforcement officers, and contractors from penalties arising out of enforcement of the new laws. SF 2340 prevents a state judge from abating, or setting aside, a prosecution under the new law because a federal determination of a person’s immigration status is pending or will be initiated-taking away a state judge’s discretion to allow the established, federal immigration law process to play out.

Iowa law enforcement leaders have expressed concern about SF 2340, from harming [long-term efforts to build community trust](#) to basic logistics. Des Moines Police Chief Dana Wingert [notes](#) that his department is “not equipped, funded or staffed” to assume federal immigration enforcement duties, “Simply stated, not only do we not have the resources to assume this additional task, we don’t even have the ability to perform this function[.]” In May 2024, the DOJ [sued](#) Iowa, calling SF 2340

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unconstitutional and seeking to block its enforcement. In the same month, the American Immigration Council (“AIC”) represented the Iowa Migrant Movement for Justice and two Iowa residents in [another lawsuit](#) challenging SF 2340. In June 2024, the U.S. District Court for the Southern District of Iowa issued a preliminary injunction, preventing SF 2340 from taking effect.

### **LOUISIANA’S SENATE BILL 388**

Louisiana’s [Senate Bill 388](#) (“SB 388”) was signed into law in June 2024. However, the law’s effective date is wholly dependent on either one of two outcomes, as outlined in the legislative text:

1. Any decision in the Supreme Court case *United States v. Texas* that upholds the validity of Texas SB 4; or
2. The adoption of an amendment to the U.S. Constitution increasing the authority of Louisiana to “prohibit or limit the unlawful entry or reentry by an [noncitizen] without lawful presence in this state.”

SB 388 is nearly identical to Texas SB 4 in creating new crimes of unlawful entry and reentry into the state of Louisiana, along with adopting select other provisions found in the Texas law. Strikingly, SB 388 goes to a new extreme by creating an “Interstate Compact for Border Security.” The Compact is meant to “deter unlawful entry and unlawful reentry into this state by a [noncitizen] [...] and to join with other states in mutual assistance in order for border states to control the influx with respect to illegal immigration[.]” The Compact section of SB 388 cites directly (and selectively) to *Arizona v. United States*, maligns the federal government’s immigration enforcement tactics, and lists a litany of dubious “human and economic costs” borne by Louisiana citizens resulting from immigration. SB 388 explicitly states that the governors of Louisiana and Texas will negotiate a final Compact with the following priorities:

- Sharing of law enforcement intelligence on illegal activity occurring at or in



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proximity to the United States–Mexico border.

- ▶ Sharing of state resources in order to build physical barriers, comprehensive technological surveillance systems, or combinations of barriers and surveillance systems on state property for the purposes of deterring and detecting illegal activity at or in proximity to the United States–Mexico border.
- ▶ Sharing of other law enforcement resources to ensure the protection of personnel and property of citizens of the states participating in the compact.

The creation of the so-called “Interstate Compact”, which includes language about “sovereign states,” could upend the long-held doctrine of the Constitution’s Supremacy Clause—a dire consequence that will reach far beyond the realm of immigration and criminal law. It is abundantly clear that Louisiana’s SB 388 is one of the most extreme direct descendants of Texas SB 4, given SB 388’s explicit citation to the law itself and its complete reliance upon the legal fate of Texas SB 4. Despite being signed into law in June 2024, SB 388 will not go into effect unless Texas SB 4 is upheld in federal court.

### ***OKLAHOMA’S HOUSE BILL 4156***

Oklahoma’s [House Bill 4156](#) (“HB 4156”) was signed into law in April 2024, to be effective in July 2024. HB 4156 creates a new crime of “impermissible occupation”, wherein a person is “a [noncitizen] and willfully and without permission enters and remains in the State of Oklahoma without having first obtained legal authorization to enter the United States.” The new crime is a misdemeanor offense carrying a sentence of 1 year of imprisonment or a fine, but requires those convicted to leave the state of Oklahoma within 72 hours of their conviction or release from criminal custody. Second or subsequent offenses of impermissible occupation are felonies, punishable by up to 2 years of imprisonment. HB 4156 contains identical language to Texas SB 4 in requiring state law enforcement to collect biometric data and cross-reference data with various databases.

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HB 4156 also prevents municipalities and political subdivisions—as in, local communities with potential [sanctuary policies](#)—from “adopting any ordinance, regulation, resolution, rule, or policy that conflicts with the provisions of this act.”<sup>4</sup> HB 4156 also prevents people convicted under the new law from being placed into diversion programs to avoid imprisonment. Finally, the law establishes the declaration of an “emergency” upon the effective date of the law. In May 2024, the DOJ filed a [lawsuit](#) against Oklahoma, again arguing that HB 4156 violates the Constitution and seeking to prevent its enforcement. In late June 2024, a federal court [halted](#) the law with a preliminary injunction, preventing HB 4156 from going into effect.

In May 2024, Oklahoma Association of Chiefs of Police and metro law enforcement agency leaders released a [joint statement](#) saying that HB 4156 “brings forth legal challenges in fair and impartial policing and anti-racial profiling[.] These unintended consequences may deteriorate public trust in law enforcement in already vulnerable communities, ultimately resulting in increased public safety concerns.”

### **TENNESSEE’S HOUSE BILL 2124**

Tennessee’s [House Bill 2124](#) (“HB 2124”) was signed into law in April 2024, set to go into effect in July 2024. Unlike Texas SB 4 but of a similar spirit, HB 2124 requires that all state law enforcement officials communicate with federal officials “regarding the immigration status of any individual, including reporting knowledge that a particular [noncitizen] is not lawfully present in the United States,” and requires state law enforcement to “cooperate with” federal officials in the “identification, apprehension, detention, or removal of a [noncitizen] not lawfully present in the United States.” HB 2124 strengthens a prior state immigration law that was passed in 2018, making state law enforcement officers de facto immigration agents: a role that is strictly within the purview of federal law.

<sup>4</sup> Texas’s noxious anti-immigrant influence on legislation in other states cannot be ignored. In 2017, Governor Greg Abbott signed into law a different SB 4, referred to here as “Texas SB 4 2017.” Texas SB 4 2017 empowers the Texas Attorney General to fine jurisdictions and remove elected officials who adopt, enforce, or endorse policies that appear to “prohibit or materially limit the enforcement of immigration laws.” Advocates understand [Texas SB 4 2017](#) to be a direct attack on any “sanctuary” communities and local jurisdictions seeking to protect noncitizens from racial profiling and deportation. See [https://www.ilrc.org/sites/default/files/resources/sb4\\_lawsuits\\_explainer.pdf](https://www.ilrc.org/sites/default/files/resources/sb4_lawsuits_explainer.pdf); <https://www.ilrc.org/sites/default/files/resources/ilrc-uw-d-sb4advocacyoptions.pdf>.

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A Nashville Police Department spokesperson voiced [concern](#) that HB 2124 will erode any semblance of trust between state law enforcement and noncitizen communities in Tennessee: “We rely on members of our community, including immigrants, some of whom are victims, others witnesses, for cooperation and information to further investigations [...] The concern is this legislation could dissuade cooperation with our officers among some Nashville residents.”

## **MORE DANGER IS BREWING: TRENDS IN TEXAS SB 4-STYLE BILLS AND STATE ANTI-IMMIGRANT EFFORTS**

Texas SB 4 and its implications have not gone unnoticed; other states are attempting to pass similar legislation (in some cases, identical legislation) that finds new ways to target and harm noncitizens. This section identifies some broad trends that mimic Texas SB 4’s goals and/or tactics—mainly finding that many states are seeking to target noncitizens by expanding upon existing features and functions of their state criminal–legal systems. In their own words, state leaders in Texas and beyond have voiced concerns that federal immigration law does not go far enough, while also blaming the Biden administration for manufacturing various immigration “crises” even in states that do not border a foreign country.

Importantly, legislatures and leaders in these Texas SB 4 copycat states understand the intersection of criminal law and immigration law: their proposals explicitly build upon the existing arrest-to-deportation pipeline, and in many cases create and codify entirely new crimes to bring noncitizens even further into the crosshairs of local and state law enforcement. This development should be considered a blaring alarm bell: advocates within the immigrant justice and legacy civil rights movements must update their strategies and tactics to effectively resist these efforts on all fronts. Advocates and movement leaders can and should respond in ways which reflect the understanding that a perverse expansion of the criminal–legal system to target immigrants will spell disaster for all who live in the United States—citizens and noncitizens alike. The phenomenon of “crimmigration”—the mirror image



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interrelationship between the criminal-legal and immigration systems-is alive and well in practice, and is growing in popularity as more anti-immigrant policies take effect. Immigrant justice and legacy civil rights advocates cannot respond effectively to changing opposition tactics without also changing approaches, eliminating organizing silos, abandoning scarcity and zero-sum models, embracing transformational solidarity, and building stronger, durable bridges across interconnected movements.

## OVERVIEW OF 2024 TEXAS SB 4-STYLE BILLS AND STATE LEGISLATIVE TRENDS

*Creating new state crimes of illegal or unlawful entry, reentry, or criminal trespass*

### **ARIZONA SENATE BILL 1231**

**Status:** Vetoed by Arizona's Governor.

### **IDAHO HOUSE BILL 753**

**Status:** Introduced into the Idaho House.

### **KANSAS SENATE BILL 522**

**Status:** Died in committee.

### **SOUTH CAROLINA HOUSE BILL 5350**

**Status:** Introduced into the South Carolina House.

### **MISSOURI HOUSE BILL 2523**

**Distinction:** Adds a new section to an existing statute, defining felony "trespass by an illegal alien.

**Status:** Passed through the New Hampshire Senate, being considered by the House..

### **NEW HAMPSHIRE SENATE BILL 504**

**Distinction:** Amends an existing land use statute to expand grounds for criminal trespass against people suspected of illegal entry into the state from Canada.

**Status:** Passed through the New Hampshire Senate, being considered by the House.

*Punishing local sanctuary cities and jurisdictions*

### **GEORGIA HOUSE BILL 301**

Penalizes local governments that violate immigration sanctuary policies. Violators will lose their eligibility for certain state and federal funds, waive sovereign immunity for local governments and their officials and employees, and removal of members of local governing authorities.

**Status:** Passed through the legislature, but not yet signed into law.

*Increasing existing criminal penalties for noncitizens without status*

### **FLORIDA SENATE BILL 1036, HOUSE BILL 1451, AND HOUSE BILL 1589**

SB 1036 enhances felony penalties for "crime committed by an individual who returns to the country illegally after an initial deportation." HB 1451 prevents Florida counties from accepting ID cards-like driver's licenses-issued to noncitizens by other jurisdictions. HB 1589 increases penalties for people convicted of driving without a license.

**Status:** All three bills signed into law in March 2024.

*Increasing requirements on private sector to use immigration tools like E-Verify*

### **WEST VIRGINIA HOUSE BILL 4579**

Requires most private employers to use E-Verify for all new hires, or face suspension of their business licenses.

**Status:** Introduced into the West Virginia House.

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## **A BULWARK AGAINST COLLECTIVE HARM: HOW TEXAN COMMUNITIES ARE RESISTING**

Texan communities and advocates have been organizing a large-scale, multi-prong resistance to the implementation of Texas SB 4 and the nefarious Operation Lone Star since their inception. It is worthwhile to note that a state like Texas has a robust immigration advocacy ecosystem, with many experienced organizers, attorneys, and individuals who have witnessed attacks on their communities for decades. Nonetheless, states with a less established infrastructure can still implement some of the tactics as Texas SB 4-style bills are floated across the country—and Texas advocates are ready and willing to share lessons learned.

### ***PRIORITIZING ORGANIZING, MESSAGING, AND COMMUNITY EDUCATION***

Resistance to Texas SB 4 has included conducting consistent [Know Your Rights](#) (“KYR”) workshops and teach-ins for community members who will be affected by the legislation, for nonprofit leaders, and for organizers to help guide conversations about the law. These sessions started before the bill was signed into law, and have continued throughout the Texas SB 4 litigation efforts. Advocates disseminate KYR flyers and infographics in multiple languages, both online and in-person, to ensure a deep reach into affected Texas communities and communities across the country. Advocates take advantage of online platforms and tools like Instagram Reels and TikToks to create short-form videos that inform the public about what Texas SB 4 is poised to do and how to get involved in organizing efforts. Finding local elected officials and law enforcement leaders who will publicly oppose Texas SB 4 has also been prioritized, in order to disrupt false narratives that claim all Texas officials are aligned with anti-immigrant legislation.

Coordinating communications plans, which include drafting talking points for organizations and individuals, creating toolkits with consistent, clear, accessible graphics for social media, and scheduling advocacy days online and in-person keep



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the momentum going even as Texas SB 4 winds its way through federal courts. These advocacy days and materials strive to uplift narratives that demonstrate the reality- and beauty-of noncitizen communities. Local organizers schedule meetings with local law enforcement agencies and jurisdictions, either encouraging them to de-prioritize enforcing Texas SB 4 should it go into effect or ideally, to issue public statements opposing the requirements contained within the law. The primary strategic goal of comprehensive community education through KYR initiatives, coupled with unequivocal public opposition from agencies tasked with enforcing Texas SB 4, is to empower Texans to confidently exercise their constitutional rights during any law enforcement interaction. Additionally, these efforts seek to deter aggressive enforcement if Texas SB 4 is upheld by the courts.

Texas advocates and coalitions dedicate considerable time and effort to messaging and narrative strategies. Laws like Texas SB 4 originate from dangerous falsehoods and misinformation about immigrant and noncitizen communities. At the local level, whether through community social media pages or neighborhood apps, it is crucial to fact-check mis- and disinformation and to highlight the humanity of immigrants and noncitizens. Texas advocates emphasize the importance of sharing the rich and nuanced stories of border residents and noncitizens living in border communities, countering the constant portrayal of border chaos from news outlets. There is much more to these communities than what is typically depicted.

It is also essential to place these laws in the context of mass incarceration and the injustices of the criminal-legal system itself. Texas SB 4 and its ilk demonstrate exactly how the far right weaponizes the criminal-legal system to control and punish people of color, criminalizing the very act of being or living as an immigrant. Additionally, the exorbitant costs of these punitive policies must be emphasized in messaging. In Texas, arresting someone under Operation Lone Star [costs](#) \$400,000 per individual-funds that could otherwise improve the state's power grid to protect Texans from winter storms and hurricanes, among other dire needs. Narrative

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campaigns should insist that policymakers in each of the states pursuing copycat legislation reassess their priorities, redirecting valuable resources towards public needs rather than immigration enforcement and border militarization.

### ***COLLABORATING WITH ATTORNEYS***

Further, organizers prioritize collecting data on the ground, which feeds documentation tools that can be used by attorneys litigating Texas SB 4 in the courts. This includes creating travel advisory maps to inform people about high-risk locations within the state, arranging for attorneys to monitor and manage incoming data and testimonials, and creating forms and features for individuals to log their experiences with law enforcement agencies and criminal courts. Other legal support can include the creation of local bail funds to ensure that people who are arrested and detained can post bail and return to their families and communities while they await trial. Additionally, advocates and organizers are in dialogue with local public defender offices to reach targeted individuals earlier in the legal process, to offer wraparound support services and more proactively support legal defense efforts. Documentation and knowledge sharing are tactics that ultimately invite local advocates to learn how their local criminal legal system works against noncitizens. It is crucial for local leaders to work with criminal defense attorneys to map out what enforcement of these bills will look like in their communities, mapping out potential bail amounts for misdemeanor or felony charges under new legislation. Additional questions to answer through collaboration with attorneys include: What judges and which courts may be taking on new criminal cases? What arrest trends are forming? Are certain local law enforcement agencies being more active than others? This mapping and information collection must guide the organizing and litigation strategies against Texas SB 4 and other copycat bills.

Below is just one success story in resisting the multiple harms of OLS:

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*As one of the first direct service providers at Texas Rio Grande Legal Aid (“TRLA”) to the first waves of immigrants arrested en masse under Operation Lone Star in 2021, engaging with the vast Texas ecosystem of community advocates and organizers was instrumental in amplifying impacted voices and mobilizing resistance efforts at local, state and national levels. Based on our joint efforts, we had Operation Lone Star declared unconstitutional in dozens of individual cases. We also engaged directly with advocates at the border to reverse local policy decisions, including convincing several counties to not prosecute OLS cases and to withdraw participating landowner affidavits and policies needed for OLS prosecutions. Working within the immigrant advocacy ecosystem in Texas has been invaluable as we operate as a state-wide legal resource and advocate for immigration policy reforms at the Texas Immigration Law Council, where we pool resources, expertise and information to enhance our advocacy efforts. Uniting a broad coalition with an amplified voice of unrelenting resistance has been crucial in pushing back against attempts to create an environment of fear and division in order to preserve our democratic institutions and rule of law.*

*- **Kristin Etter**, Director of Policy and Legal Services, Texas Immigration Law Council (former attorney for TRLA)*

## **OUR RECOMMENDATIONS**

First, the DOJ must intervene in all states where Texas SB 4 copycat bills are being passed into law. Other states are closely tracking the ongoing litigation over Texas SB 4, and the outcome in that case may determine whether similar bills take permanent hold across the country. Should the DOJ take a strong, principled, legally-sound stance against Texas SB 4 copycat laws in different venues, such action could actively deter other states from attempting to criminalize immigration in similar ways. Indeed, every state that has adopted a Texas SB 4-style law has been at least temporarily prevented from allowing the law to go into effect thanks to active litigation.

Many in the immigrant advocacy space recall the sweeping deterrent effect of the



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Supreme Court striking down most provisions of Arizona’s infamous SB 1070 in its *Arizona v. United States* (2012) decision; it is vital that the DOJ prioritize challenging Texas SB 4 and its ilk to discourage further state-level efforts. In fact, immigration advocates are already seeing the deterrent effects of the combination of rapid response organizing and DOJ legal intervention. What was expected to be a much larger wave of Texas SB 4 copycat bills has slowed temporarily. This trend drives home the importance of strong legal interventions at the outset of dangerous power grabs like Texas SB 4.

Local governments alongside legal and advocacy organizations with the capacity to do so should also proactively litigate against Texas SB 4-style bills if and when they are passed into law; these lawsuits can either support the ongoing work of the DOJ through consolidation of cases, or could potentially spur the DOJ to intervene by raising the profile of anti-immigrant legislative efforts. Further, local governments, law enforcement agencies, and criminal-legal system actors (like prosecutors and judges) who are opposed to Texas SB 4-style bills should, or announce their serious intention to, de-prioritize the enforcement of these bills if passed into law.

Second, communities across the nation, regardless of legal status, must powerfully resist efforts like Texas SB 4 and its copycats wherever they crop up, while attorneys and advocates battle these measures in the courts. Noncitizens and U.S. citizens alike can play an important role in combating dangerous laws like Texas SB4. Local public figures, business leaders, elected officials can and should issue statements supporting the dignity and safety of noncitizens and roundly reject the dangers of Texas SB 4 and its copycats, regardless of what legislative stage a bill may be in. Community-level resistance demonstrates that there is widespread public dissent against criminalizing immigration and other forms of legal extremism. This is integral to ensuring that similar efforts do not gain a foothold in vulnerable states without large, well-organized immigrant advocacy ecosystems. Texas officials paved the way for OLS and Texas SB 4 by ensuring that the political makeup of their state legislature



*continued...*

would support significant program funding and the construction of necessary physical infrastructure—including buildings and facilities—to execute Governor Greg Abbott’s vision. For now, many of the states promulgating Texas SB 4 copycat bills have neither the legislative environments nor the sheer infrastructure to support their extremist efforts. However, should Texas SB 4 and its copycats survive legal challenges, other states may be emboldened to take all necessary steps to harm and expel noncitizens. Community resistance is key to preventing that dangerous outcome.

**LEARN MORE:** To learn more and get involved in ongoing advocacy efforts, please visit <https://www.endlonestar.com/>

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