



LIVING WITH TEXAS SB 4: AN UNPRECEDENTED STATE DEPORTATION SCHEME

A breakdown of the Texas law that creates new offenses to target immigrants across the state for arrest and rapid deportation.

JUNE 2026

I. INTRODUCTION

In 2023, Governor Greg Abbott signed the third Texas SB 4 (hereinafter “Texas SB 4”) into law—a controversial, extreme piece of legislation that seizes immigration enforcement authority from the federal government outright and places it into the hands of state authorities.¹ The third SB 4 adds another layer to an increasingly complex matrix of immigration enforcement schemes in Texas, which includes [Operation Lone Star](#), the preceding SB 4 bills from [2023](#) and [2017](#) (targeting drivers by illegally conflating immigration with human smuggling and banning sanctuary cities, respectively), and [SB 8](#) (mandating Texas sheriffs join the [287\(g\) program](#)).

For more than two years, advocates have decried Texas SB 4, describing the dangers of the law as wide-ranging and frightening. Texas SB 4 would bring all Texans and those suspected of being undocumented under the permanent threat of immediate detention and deportation by the state, should they be suspected of illegal entry or reentry into Texas. Life-changing legal decisions under Texas SB 4’s new criminal regime will be made by state judges and so-called [peace officers](#) who must now interpret highly complex, ever-changing immigration law to determine a person’s immigration status. State judges adjudicating Texas SB 4 cases are not trained in

¹ There are three immigration-related “SB 4” laws in Texas which have different legislative goals: [SB 4](#) (signed into law in 2023, 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).



immigration law, and the state of Texas has not announced any plans to provide judges' with immigration law training. After signing Texas SB 4 into law, Governor Abbott [stated to reporters](#) that he directly intended to use the law to challenge the Supreme Court's prior ruling in *Arizona v. United States* (2012), which affirmed that the federal government, not states, had the sole authority to enforce immigration law. By Governor Abbott's admission, Texas SB 4 represents an unheard-of state usurpation of federal law, violating constitutional principles and norms that govern how states interact with the federal government.

Before Texas SB 4 was scheduled to go into effect in March of 2024, multiple lawsuits [halted its progress](#), but not before spawning several [copycat bills](#) in state legislatures across the country. Two years later, at least one federal lawsuit was dismissed without reaching the constitutional issues at the heart of Texas SB 4, and [the law went into effect](#) on May 29, 2026. This brief reviews essential information for communities preparing to live with, and resist, the guaranteed harms that SB 4 will inflict on all Texans.

II. TEXAS SB 4 REFRESHER

As we've written [before](#), Texas SB 4 poses significant threats to all immigrants and all immigrants and people of color residing in Texas. Among other provisions, Texas SB 4:

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

Illegal Entry From a Foreign Nation, Illegal Reentry by Certain [Noncitizens]², and Refusal to Comply with a State Judge's Order to Return to a Foreign Nation. The first two offenses start as misdemeanors with 180 days or up to 1 year of imprisonment if convicted, and both can be enhanced to state felonies for repeat offenders. The third offense begins as a state felony with up to 20 years of imprisonment if convicted. Per the statute, people who violate the law will be

2

The statutory language of Texas SB 4 and other state laws discussed in this brief use the pejorative, dehumanizing term "alien." The ILRC recognizes and condemns the derogatory and xenophobic connotations of the word "alien," and utilizes the term "noncitizen" or "immigrant" 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>.



“returned” to Mexico *regardless of their country of origin*.

- **Authorizes a broad range of state actors to make arrests based on mere suspicion:** The law authorizes [peace officers](#), which may range from a Sheriff to a park ranger, to make arrests when they suspect people of violating the newly-created state crimes. People who are arrested will be taken before a state judge for adjudication.
- **Creates new criminal procedures for state ordered deportations:** The law has two removal provisions, one being mandatory and the other “voluntary.” Importantly, removal under both of these provisions can occur in as little as 48 hours, long before most people obtain access to legal counsel.
 - ⇒ **Voluntary state deportation provision:** A state judge (not a federal immigration judge) may offer a form of “voluntary” deportation to a person charged under the law at an early stage in the case. If the person agrees to the state deportation order, the judge can dismiss the criminal charge(s) and the person can avoid a criminal conviction.
 - ⇒ **Mandatory state deportation provision:** If an accused person is criminally convicted of any of the new state offenses, Texas SB 4 requires state judges to enter a mandatory deportation order. The state deportation order will go into effect once the person has served their criminal sentence.
- **Defies current ongoing immigration proceedings:** Texas SB 4 prevents state 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 a person with a pending immigration application (for example, asylum, Temporary Protected Status, or U visa applications) can still be deported if prosecuted under the state law. Texas SB 4 also strips state judges of their power to use their discretion, or consider other important individual factors when deciding cases.



- **Protects law enforcement from liability:** Texas SB 4 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 state offenses and procedures. The law also prevents state judges from placing anyone convicted of these new offenses on alternatives to incarceration, including community supervision.

III. UPDATE ON TEXAS SB 4 LITIGATION

Texas SB 4 will upend the established federal U.S. immigration system by creating a parallel, state-level system in Texas. This system will rely on peace officers and state judges without the subject-matter expertise to adjudicate cases, or uphold any protections for the most vulnerable people, including people with pending asylum applications, or survivors of violence that are seeking immigration relief. Further, Texas SB 4 will worsen the state's ongoing [humanitarian crisis](#) by using state resources to arrest immigrants en masse and detain them in state jails and prisons. Texas SB 4 also encourages racial profiling and other types of abject discrimination: the law allows law enforcement officers to question and potentially arrest anyone they believe entered into Texas from Mexico (or from another country) without authorization and who they believe lacks legal immigration status. The unchecked enforcement 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 will inevitably be a disproportionate number of people of color.

As expected, Texas SB 4 attracted multiple lawsuits before it went into effect, each of which is described below. When Texas SB 4 was making its way through the Texas legislature, a growing number of other states proposed copycat legislation, establishing similar (if not identical) state deportation schemes. One of these copycat bills, Louisiana's Senate Bill 388, was [signed into law](#) with an effective date that rests on "Any decision in the Supreme Court case *United States v. Texas* that upholds the validity of Texas SB 4." The outcomes in the cases that follow will determine far more



than what the state of Texas is authorized to do.

1. *United States v. Texas* (2026)

United States v. Texas was [filed in December of 2023](#) by the American Civil Liberties Union (ACLU), ACLU of Texas, and the Texas Civil Rights Project (TCRP) in federal court on behalf of Las Americas Immigrant Advocacy Center, American Gateways, and El Paso County. The plaintiffs argued that Texas SB 4 violates the Supremacy Clause of the Constitution and is preempted by federal immigration law.

In January 2024, the U.S. Department of Justice (“DOJ”) under the Biden administration 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.

In March 2025, the DOJ under the second Trump administration [moved to drop](#) its challenge to Texas SB 4 in federal court, as Texas SB 4 aligns with the administration’s immigration enforcement goals. In July 2025, a smaller panel of Fifth Circuit judges [found that at least one of the plaintiffs](#) had standing to sue the state over Texas SB 4, and [upheld an injunction](#) that prevented Texas SB 4 from going into effect while the case proceeded.

In April 2026, after years of litigation that had paused Texas SB 4, the full Fifth Circuit Court of Appeals [reversed its own prior July 2025 decision](#). The full Fifth Circuit ruled that, for [procedural reasons](#), Texas SB 4 could go into effect on May 15, 2026. The smaller panel of Fifth Circuit judges in 2025, along with the federal trial court and “and [...] [every other federal court](#) that has heard a challenge to this type of law” held that Texas SB 4 was unconstitutional. Nonetheless, the full Fifth Circuit reversed course, not reaching the constitutional issues of the case, but instead focusing on whether the organizations had standing to



file the lawsuit. To show they had cause to bring the lawsuit, the organizational [plaintiffs had argued](#) that they would be injured by Texas SB 4 “because the new law would require that they shift money and staff from their current projects to address the criminal prosecutions that would likely begin if the court allows state officials to implement it.” However, the full Fifth Circuit ruled that the [plaintiffs lacked standing](#) because they “voluntarily incurred costs to advocate for clients[.]”

2. *LML v. Martin*

Not even two weeks after the April 2026 full Fifth Circuit decision in *United States v. Texas*, the ACLU, ACLU of Texas, and the [TCRP filed a new, class action lawsuit](#) in federal court that challenged a majority of the Texas SB 4 provisions. According to the ACLU, “[t]he individual plaintiffs in the class-action lawsuit seek to represent thousands of people across the state who may be held liable for violating the reentry provision” of Texas SB 4, with one plaintiff being a lawful permanent resident (LPR) and another being approved for a U visa. The new suit explicitly addressed the Fifth Circuit’s procedural concerns about standing in *United States v. Texas*, and challenged most of Texas SB 4’s provisions. However, the illegal entry provision was [not challenged in the lawsuit](#), and that provision went into [effect](#) on May 15, 2026 as part of the ruling in *United States v. Texas*.

A federal court in Texas [certified the *LML v. Martin* class action](#), allowing it to proceed, and granted a partial preliminary injunction against Texas SB 4, preventing four of its provisions from going into effect as scheduled on May 15, 2026. The order blocked the illegal reentry crime, state deportation order authority, the crime of failing to comply with state deportation orders, and the requirement to continue with criminal prosecutions despite pending immigration cases provisions.

In his order, [federal judge David Ezra stated](#) that Texas SB 4 “could open the



door to each state passing its own version of immigration laws. The effect would moot the uniform regulation of immigration throughout the country and force the federal government to navigate a patchwork of inconsistent regulations.” During hearings prior to issuing his ruling, Judge Ezra [expressed skepticism](#) about the state of Texas’s claim to have authority over immigration law: “It just doesn’t make any sense to me unless one ignores the Constitution [...] The state of Texas is not its own country.” As part of his analysis as to whether Texas was prepared to enforce the law and imminently harm the plaintiffs and others like them, Judge Ezra noted that the former director of the Texas Department of Public Safety (DPS) [testified before the state legislature](#) that Texas SB 4 could lead to 75,000 or 80,000 additional arrests per year.

“[SB 4] COULD OPEN THE DOOR TO EACH STATE PASSING ITS OWN VERSION OF IMMIGRATION LAWS. THE EFFECT WOULD MOOT THE UNIFORM REGULATION OF IMMIGRATION THROUGHOUT THE COUNTRY AND FORCE THE FEDERAL GOVERNMENT TO NAVIGATE A PATCHWORK OF INCONSISTENT REGULATIONS.”

–JUDGE EZRA

On May 29, 2026, a panel of Fifth Circuit judges issued a [single-page order](#) allowing Texas SB 4 to go [into effect in its entirety by reversing](#) Judge Ezra’s preliminary injunction of the law. Notably, one member of the panel would have denied the motion. Although the preliminary injunction preventing Texas SB 4 from taking effect has been overturned, the underlying merits of the class action suit (whether the law is constitutional) is still pending in federal court.

3. *La Union del Pueblo Entero, et al v. Abbott*

In March of 2024, the Mexican American Legal Defense and Educational Fund (MALDEF) and National Immigration Law Center (NILC) [filed a federal lawsuit challenging Texas SB 4](#) on similar grounds as the other two lawsuits, arguing that not only does Texas SB 4 violate the Constitution, it also “violates the Fourth, Eighth, and Fourteenth Amendments to the Constitution.” The legal



organizations represent a border-based nonprofit, its members, and four individual Texas residents. This suit remains pending before federal district court.

IV. HOW COMMUNITIES CAN PREPARE FOR TEXAS SB 4

As Texas SB 4 is enforced, advocates warn the law will cause grave harm to communities of color all across Texas through overcriminalization and overpolicing, racial profiling, and due process violations. Early [reporting of two arrests in Hidalgo County](#) in the days after Texas SB 4 took effect shows that that county's District Attorney (DA) considered merely watching a person cross the Rio Grande to constitute probable cause to make an arrest under Texas SB 4, raising legal concerns. Additionally, the local DA is unsure how the county will logistically handle these cases, and he "[hopes](#)" DHS will take people into custody after arrest to avoid the cost of keeping accused people in local jails.

[Operation Lone Star](#) ("OLS") may provide a template for the implementation of Texas SB 4. Since its launch in 2021, OLS has sanctioned state law enforcement authorities to enforce immigration law and target perceived immigrants by charging them with "trespassing" or other state crimes. Under OLS, once a person was in criminal custody, they were often released on bail, only to be [quickly transferred to ICE custody](#), without having the opportunity to defend themselves against the state charges. Texas SB 4 will be an expansion of the elaborate OLS deportation scheme in the state, as many individuals who are charged under the law will quickly be transported to ICE custody, without ever having the opportunity to defend themselves against the state charges. Texas has even [quietly launched](#) an "OLS 2.0," where "specialty teams" from DPS are shifting state personnel and other resources to immigration enforcement. In the first nine months of 2025, DPS arrested more than 3,000 immigrants, almost 90 percent of which "were picked up on suspicion of violating federal immigration laws like improper entry into the country." OLS 2.0 is functioning under the explicit direction of Governor Abbott, and DPS officials and the



continued...

Governor both note that people arrested by DPS teams under OLS 2.0 are [not tracked](#), nor are their criminal histories verified by DPS, as people are “then deported by ICE” after initial arrest by DPS.

Outside the OLS scheme, a person’s initial interaction with law enforcement agencies in Texas often lead to a person being placed in ICE custody. In 2025, almost [50 percent](#) of ICE arrests in Texas occurred after transfer from county jails, and between 2023 and 2025, [52 percent](#) of ICE arrests came from local jails. Additionally, jails in [four Texas counties](#) are featured in the top ten list of jails receiving the most ICE detainers (request from ICE to law enforcement to hold an individual 48 hours past their scheduled release from criminal custody) across the country. From January 2025 to July 2025, ICE made 138,068 arrests nationwide, with [24 percent](#) of them occurring in Texas. Making matters worse are 1) the proliferation of 287(g) agreements turning most county law enforcement agencies into an extension of DHS, and 2) the expanded [conversion of warehouses into immigration detention centers](#). These developments have created an environment of pervasive immigration enforcement in Texas where any interaction with police becomes part of the [arrest-to-deportation pipeline](#).

Although Texas SB 4’s full implementation will continue to unfold, evidence points to a likely scenario: Texas SB 4’s new state criminal provisions will provide state authorities with more pretense to detain and arrest people who will be swiftly transferred to DHS custody. ***Worryingly, according to public information on [bail forms made available by Texas courts, there were 37 Texas SB 4 “illegal entry” or “illegal reentry” charges filed in 2025-while the law was not in effect.](#)*** The status of these charges is not clear at the time of this writing.

Communities can prepare for a world with Texas SB 4 on the books, by deepening constitutional Know Your Rights (KYR) training and shared knowledge, promoting emergency preparedness practices, and participating in community reporting and mounting legal challenges when possible. More KYR information can be found in the



ILRC's [Know Your Rights](#) materials, the ACLU's [Know Your Rights](#) materials, and from the ACLU of Texas's [resources specific to Texas SB 4](#).

► *The Constitutional Rights at the Heart of Texas SB 4*

- ⇒ **Fourth Amendment Rights:** The [Fourth Amendment](#) to the Constitution protects all individuals in the United States against unreasonable searches and seizure of their persons (their bodies), their houses, their papers, and their effects. Although ICE agents can arrest people in public without an arrest warrant, ICE can only do so if agents either have the person's consent or they have "probable cause" to believe the person is in the United States unlawfully.
- ⇒ **Remaining Silent:** In general, you have the right to remain silent when ICE or police stop, detain, or question you about your immigration status. You do not have to answer questions, volunteer information, or verbally defend yourself from accusations about your immigration status; as any of these activities could provide the officer with the probable cause needed to make an arrest or later be used against you in criminal or immigration court. It is important you do not lie or make false statements about your immigration status or anything else, which is why remaining silent is the safest option. If ICE approaches you, you can clearly state that you are exercising your right to remain silent. If you are stopped and questioned while driving, an officer can ask for your driver's license. Alternatively, you can provide your driver's license or provide the officer with your name, driver's license number, home address, and date of birth.
 - ⇒ Per the [ACLU of Texas](#), "[w]ith the new offenses created by S.B. 4, police officers will in some cases have grounds to ask people whether they entered Texas from another country illegally." Nonetheless, you still have the right to remain silent.



- ⇒ **Note:** If you are not a U.S. citizen and an immigration officer asks for your immigration papers, you [must show them](#) if you have them with you.
- ⇒ **Right to be Represented by an Attorney:** If you are arrested by the police, you are entitled to a free, government-appointed attorney (like a public defender) and you are entitled to make a local phone call. If you are arrested or detained by immigration officials, you are not entitled to an appointed attorney but you do have the right to consult with an attorney of your choosing—you can ask for a list of free or low-cost attorneys. Even if you are arrested or detained, you generally do not have to answer questions about your immigration status.
- ⇒ **Rights in Your Home:** You do not have to consent to searches of your home by police or immigration officers without certain types of warrants known as arrest or judicial warrants. This means ICE cannot enter your home without a valid judicial warrant. [An ICE warrant is NOT a judicial warrant](#). An ICE warrant does NOT give ICE the authority to enter a person's home and conduct a search. If ICE claims they have a warrant, you do not have to open the door for them. Ask ICE to slip the judicial warrant under the door or show it through a window. Even if an officer has an arrest warrant, you have the right to remain silent if police or ICE come to your home.
- ⇒ **Interacting with Agents or Police Near the Border:** Even at or near the border, you have the right to remain silent about your immigration status. There is a limited exception to this rule for a specific group of individuals—people who have permission to be in the United States for a limited amount of time and for a specific reason (like traveling with a nonimmigrant visa). These individuals must answer questions about their immigration status if asked.
- ⇒ U.S. Customs and Border Protection agents need a

“reasonable suspicion” that you are in the United States unlawfully before they can detain you. In order to arrest you, immigration officials need “probable cause” that you are in the U.S. unlawfully. However, at immigration checkpoints, officers do not need either “probable cause” or a “reasonable suspicion” to stop you, ask questions, or visually inspect vehicles.

► *Emergency Preparedness for Texas SB 4*

⇒ As difficult as it may be, families with immigration statuses that are at risk should [carefully prepare](#) for potential immigration emergencies. Factors to take into account include planning for medical and medication needs, securing child care assistance in case a parent is detained, locating and contacting immigration legal services in the community, making [financial contingency plans](#), and maintaining KYR education. Although it is not clear what enforcement of Texas SB 4 will look like, there will be a significantly increased likelihood of immigration consequences of interactions with state and/or local police, heightening the risk of every encounter with law enforcement. Creating emergency plans and consistently revising them will be essential.

► *Legal Challenges to Texas SB 4*

⇒ Where possible, impacted community members should consider joining or launching legal challenges to events arising from Texas SB 4 enforcement actions. Understandably, vulnerable community members may not want to join public or highly visible litigation efforts, as we have seen the vindictive, retaliatory behavior of both the Trump administration and allied state governments.

⇒ Nonetheless, community advocates and coalitions can work together.

Community members should connect with local coalitions and advocacy organizations, especially those with rapid response and monitoring capabilities. Monitoring enforcement of Texas SB 4 across the state can help build out enforcement maps and travel advisories to better inform community members about the risks of being present in certain parts of the state with heightened enforcement activity. Monitoring and reporting civil rights violations can also lead to the identification of cases for future litigation efforts that can stop laws like Texas SB 4 in their tracks.

⇒ Balancing individual survival with community resilience is daunting, but legal challenges to legal problems require the full participation of the impacted and bystanders alike—these negative developments are not inevitable if communities are supported and can work together to fight back out loud.

⇒ [Lone Star Defenders Office](#), a nonprofit that provides criminal defense representation to individuals arrested under Operation Lone Star, has created resources on litigation strategies and trial defenses for attorneys representing individuals arrested under SB4. .

“SINCE OPERATION LONE STAR BEGAN, THE DEFENSE PROGRAM HAS LITIGATED A WIDE-RANGE OF CONSTITUTIONAL AND OTHER LEGAL ISSUES IN THE COURTS. FILING MOTIONS AND WRITS RAISING THESE ISSUES HAS RESULTED IN BETTER CASE OUTCOMES AND, AT TIMES, DISMISSAL OF CHARGES ALTOGETHER. IT’S IMPERATIVE THAT DEFENSE ATTORNEYS ZEALOUSLY ADVOCATE FOR THEIR CLIENTS FACING THESE NOVEL CHARGES.”

– AMRUTHA JINDAL

V. CONCLUSION

For more than two years, Texas communities have been spared the worst of what Texas SB 4 promised but have built creative strategies and resilience in the face of combatting OLS and

Texas’ other regressive anti-immigrant laws. As litigation proceeds, and some of the law’s provisions are allowed to take effect, communities can fight back by preparing



for all outcomes, practicing resilience and a politics of care, and nurturing widespread awareness of Constitutional and other rights.

For more information Operation Lone Star, please visit:

<https://all4texans.org/>