



**FOR IMMEDIATE RELEASE**  
Sept. 25, 2017

**CONTACT: Sito Negrón**  
915-351-3500 office

# Sen. Rodríguez statement on Fifth Circuit ruling re SB 4

**El Paso** – State Sen. José Rodríguez's statement is as follows:

*The fact that a court, considered to be one of the most conservative in the country, upheld a pre-enforcement ban on key provisions of the law speaks volumes. I'm confident in the case against SB 4, which I and many others warned during debate had the fatal flaws of being anti-immigrant in motive and unconstitutional in construction, and look forward to the final deliberation by the courts.*

## **BACKGROUND**

### **Timeline**

This decision will likely apply for several months, until the full appeal of SB4 is decided by the Fifth Circuit.

### **Major points per MALDEF, which argued the case in the Fifth Circuit Court of Appeals:**

Portions of SB4 that remain blocked include:

- The speech ban, which penalized local officials and employees who criticized immigration enforcement with criminal liability and removal from office, is enjoined and free speech is protected.
- Language in SB4 that would punish cities and counties that have policies that “limit” immigration enforcement. This means that cities and counties can adopt policies that instruct officers and other employees that immigration enforcement must take a back seat to greater

priorities, like protecting public safety. The Fifth Circuit accomplished this by keeping the injunction on the words “materially limit” in § 752.053(a)(1) and § 752.053(a)(2) of SB4.

Limited portions of SB4 that will go into effect:

- Cities and counties cannot outright prohibit certain employees from providing enforcement assistance to federal authorities. However, the Fifth Circuit made clear that local jurisdictions can adopt limiting policies (the Fifth Circuit maintained the injunction on the “materially limit” language in both the immigration inquiry and immigration enforcement sections).
- Although the Fifth Circuit allowed SB4 to require jails to comply with ICE detainers, the Fifth Circuit substantially pared back the obligation of jails. The Fifth Circuit explained: “The ‘comply with, honor, and fulfill’ requirement ***does not require detention pursuant to every ICE detainer request***; rather, the ‘comply with, honor, and fulfill’ provision mandates that local agencies cooperate according to existing ICE detainer practice and law.” Because ICE detainers are a matter of voluntary compliance under federal law, they will remain voluntary for local jails.

### Summary

Certain portions of SB4 will go into effect but the court has cut back on their effect. Texas cannot punish cities and counties for limiting immigration questioning and limiting their officers from providing enforcement assistance to ICE.

\*\*\*

*José Rodríguez represents Texas Senate District 29, which includes the counties of El Paso, Hudspeth, Culberson, Jeff Davis, and Presidio. He represents both urban and rural constituencies, and more than 350 miles of the Texas-Mexico border. Senator Rodríguez currently serves as the Chairman of the Texas Senate Democratic Caucus, and is a member of the Senate Committees on Natural Resources and Economic Development; Transportation; Veteran Affairs and Border Security; and Agriculture, Water, and Rural Affairs (Vice Chair).*