



# Brief: Migration & Law Enforcement

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## Key Points:

1. Texas should welcome foreigners and enforce laws for the common good.
2. If application of both goals is difficult, justice must be carefully sought.
3. Civil servants should only target aggressors who harm the common good.

**A Catholic perspective:** We support the enforcement of immigration laws in a way that is targeted, proportional, and humane. Good government has two duties on this topic, both of which must be carried out and neither of which can be ignored.

The first duty is to welcome foreigners out of charity and respect for the human person.<sup>[1]</sup> Governments should respect that parents have the solemn duty to care for their families.<sup>[2]</sup> If violence, corruption, or severe privation prevent the fulfillment of this duty, justice requires that parents find a way to fulfill their obligation; accordingly, such families have the right to immigrate.<sup>[3]</sup> While sending nations have a moral obligation to address root causes of migration, receiving nations must ensure immigrants are received with charity and respect. This is especially true for our prosperous nation which is blessed with the ability to provide immigrants the opportunity for self-sustaining work.

Moreover, civil law exists to maintain the common good.<sup>[4]</sup> Accordingly, good government and civil servants also have the duty to secure borders and enforce laws for the sake of the common good.<sup>[5]</sup> As such, governments may make immigration subject to various administrative conditions, especially with regard to an

immigrant's duties to their country of adoption. Migrants are obliged to respect with gratitude the material and spiritual heritage of the country that receives them, to obey its laws, and to assist in carrying out civic burdens.

Five principles emerge from these two duties:

1. Persons have the right to find opportunities in their homeland.
2. Persons have the right to migrate to support themselves and their families.
3. Sovereign nations have the right to control their borders.
4. Refugees and asylum seekers should be afforded protection.
5. The human dignity and rights of unauthorized migrants should be respected.<sup>[6]</sup>

Where there is tension between the application of these principles, lawmakers must carefully seek what justice requires.<sup>[7]</sup> For example, such tension should prompt a targeted, proportional, and humane enforcement of civil law. Specifically, law enforcement should focus resources on detaining and deporting dangerous persons.<sup>[8]</sup> Law enforcement should not prioritize the detention or deportation of persons who have not committed a criminal offense.

**Law and policy:** National laws define who and how many foreign-born persons can enter the U.S.; Texas laws affect immigrants after

arrival, including through law enforcement.<sup>[9]</sup>

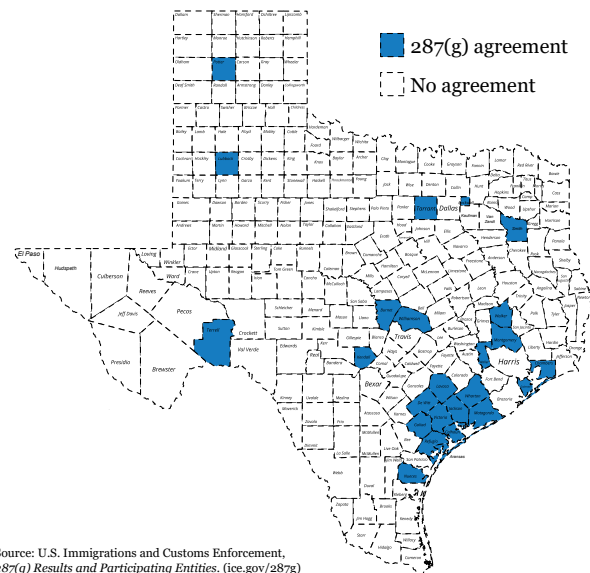
State and local law enforcement officers (LEOs) may be authorized to perform certain functions of a federal immigration officer.<sup>[10]</sup> Such authorization takes the form of a 287(g) agreement, which is maintained only in correctional settings (i.e. prisons), not in the field.<sup>[11]</sup> As Figure 1 illustrates, 25 agreements exist between county sheriff offices and the federal government.<sup>[12]</sup> Under these agreements, LEOs may interrogate and process a suspected unlawful immigrant, serve warrants of arrest, administer oaths and take evidence, prepare charging documents, issue immigration detainees and other ICE processing forms, and detain and transport migrants to ICE facilities.<sup>[13]</sup>

In addition, Texas law was recently revised to require local political entities to help federal immigration agencies in three ways. First, police must comply with ICE requests to transfer local prisoners into ICE custody.<sup>[14]</sup> Second, local entities cannot establish a policy that prohibits or limits the enforcement of immigration law.<sup>[15]</sup> Third, local entities must allow their LEOs and attorneys to: inquire into the legal status of a person who is arrested or detained, send information about legal status to ICE, help ICE enforce immigration law, and permit ICE to enter local jails.<sup>[16]</sup> A local entity that violates this law may be punished with a fine and its leaders may be removed from office and personally fined.<sup>[17]</sup>

Both the 287(g) agreements and Texas laws *could* conform to the twofold duty and five principles outlined above, but only inasmuch as the federal government prioritizes criminals for enforcement action. We encourage all civil servants—as much as they are able—to ensure that such laws are used only against aggressors who harm the common good.<sup>[18]</sup>

**Key bill summaries:** **HB 265** would require police to record inquiries into an in-

Figure 1: Texas counties with 287(g) agreements (2019)



dividual’s lawful status during a traffic stop. We support this bill to provide data showing whether such inquiries are targeted.

**HB 888** would make it a misdemeanor offense to knowingly misrepresent a child as a family member at a designated port of entry. We support this targeted bill which will combat human trafficking.

**SB 166 / HB 1217:** Currently, local law enforcement can inquire into a person’s lawful immigration status while investigating a crime, such as during traffic stops. This bill would allow such an inquiry only upon arrest. We support this bill to provide targeted enforcement.

**HB 4453** would make it an offense to threaten to report a person’s immigration status because the person aids law enforcement. We support this bill to protect immigrants who seek to preserve the common good.

**Call to action:** Please visit [txcatholic.org/migration](http://txcatholic.org/migration) to find and contact your lawmaker. Please also pray for Texas and our legislators, that they may welcome foreigners who seek security and the opportunity for their family.

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## Endnotes

1. Catechism [#2241](#); U.S. Conference of Catholic Bishops (USCCB), [Catholic Church's Position on Immigration Reform](#). (Aug. 2013)
2. Catechism [#2207-9](#).
3. Catechism [#2211](#).
4. Thomas Aquinas, *Summa Theologica*, [I.II Q. 95 Art. 2. Answer](#).
5. [Catholic Church's Position on Immigration Reform](#).
6. USCCB, [Strangers No Longer: Together on the Journey of Hope](#). § 34-38.
7. As Pope Pius XII explained: “Since land everywhere offers the possibility of supporting a large number of people, the sovereignty of the State, although it must be respected, cannot be exaggerated to the point that access to this land is, for inadequate or unjustified reasons, denied to needy and decent people from other nations, provided of course, that the public wealth, considered very carefully, does not forbid this.” ([Exsul Familia Nazarethana](#). (Aug. 1, 1952))
8. For example, see: U.S. Department of Homeland Security, [Policies for the Apprehension, Detention and Removal of Undocumented Immigrants](#). (Nov. 20, 2014) 3-5.
9. “The States enjoy no power with respect to the classification of aliens.” See U.S. Supreme Court, [Plyler v. Doe](#) page 457 U.S. 225, but cf. footnote 23. For state laws affecting integration, see: TCCB, [Brief: Immigrants' Access to Services](#). (Feb. 2019)
10. INA § [287\(g\)](#).
11. Texas Senate Border Affairs, [Testimony of Sheriff Lawrence Lauderback on behalf of Sheriff's Association of Texas](#). (Aug. 29, 2018) See 51:10 – 53:30.
12. DHS has no 287(g) agreements with Texas municipal or state police. Texas Senate Border Affairs, [Testimony of Kenneth Lawrence, Texas Municipal Police Association](#). (Aug. 29, 2018) See 01:48:20 – 01:49:50
13. U.S. Immigrations and Customs Enforcement, [Memorandum of Agreement Template](#). Appendix D.
14. Code of Criminal Procedure § [2.251](#).
15. Govt. Code § [752.053\(a\)](#).
16. Govt. Code § [752.053\(b\)](#).
17. Penal Code § [39.07](#); Local Govt. Code § [87.031](#); Govt. Code § [752.056-0565](#); cf. Texas Attorney General, [Paxton v. McManus](#), Original Petition.
18. Catechism [#2265](#).