Texas Immigration LAW COUNCIL

TEXAS SENATE BILL 4
SB4

Investigation for Illegal Entry

Under 51.02 TX Penal Code

IF NO PROBABLE CAUSE, NO ARREST

Invoke Constitutional Rights to prevent probable cause to arrest.

Is there probable cause that person is
1) not a United States Citizen; and
2) entered Texas from a foreign nation
at a location other than a port of entry?

Arrest for Illegal Entry. Person taken to a Magistrate for probable cause determination

Person is released

If magistrate finds no probable cause indicating that: 1) the person is not a United States Citizen, or 2) the person entered Texas from a foreign nation at a location other than a port of entry.

Person agrees to order of removal

Fail toreturn/unabletoreturn to foreign nation

Prosecution for new offense of Failure to Comply with Order to Return (Under 51.04 **(Punishable by 2-20 years in prison)**

Wait for transport to port of entry for removal to foreign nation

Return to foreign nation via port of entry

Return to US from foreign nation subjects person to arrest for illegal Reentry 51.03 TX Penal Code

Person does not agree to removal

- Bond Set
- Can request attorney be appointed
- **Taken to jail to await prosecution**

Affirmative defense (lawful presence, DACA recipient or grant of asylum) and if proven, can be acquitted and no removal required

If acquitted or case dismissed, no removal required

If convicted (plea of guilty or found guilty at trial), may be sentenced to 6 months in jail on first offense. Judge required to order person removed to foreign nation

OR

May agree to deportation at any time instead of continuing prosecution if judge agrees

Wait for transport to port of entry for removal to foreign nation

If person fails to return/unable to return to foreign nation, person may face prosecution for new offense of Failure to Comply with Order to Return under 51.04 TX Penal Code (punishable by 2-20 years in prison)

Information by Kristin Etter, Director of Policy and Legal Services at the Texas Immigration Law Council. For more information on SB4 reach out at info@txilc.org