



MEMORANDUM

TO: Mayor and Council

FROM: Spencer Cronk, City Manager *sc*

DATE: November 27, 2018

SUBJECT: Resolution Regarding Travel to Arizona

In 2010, Arizona passed SB 1070. Among other things, SB 1070 criminalized undocumented persons living or working in the state. Along with many other states and cities, the City Council responded by passing a resolution in May 2010 directing the City Manager to “take steps to cease all business-related travel by City employees to the state of Arizona.” The resolution provides that the ban on travel to Arizona is to remain in place “...until such time as the Arizona legislation (S.B. 1070) is overturned or changed and no longer potentially threatens City employees’ welfare...” The full resolution may be found here: www.austintexas.gov/edims/document.cfm?id=136690

In the years since the passage of the resolution, court rulings and settlements have resulted in several material changes to SB 1070 such that it no longer potentially threatens the welfare of City employees who travel to Arizona. In particular, SB 1070 has been overruled or changed in the following ways:

- Provisions establishing a state law misdemeanor to fail to comply with federal alien registration requirements have been ruled unenforceable by the U.S. Supreme Court;
- Provisions establishing a state law misdemeanor for an undocumented person to seek or engage in work in the state have been ruled unenforceable by the U.S. Supreme Court;
- Provisions allowing a state police officer to arrest a person whom the officer has probable cause to believe is removable from the United States have been ruled unenforceable by the U.S. Supreme Court;
- Provisions establishing state crime for a person to transport, harbor, or conceal a person without legal status have been permanently enjoined by federal courts;
- A federal court has ruled that Arizona law enforcement officers may conduct immigration checks only when they have detained or arrested a person for an offense other than an alleged violation of federal immigration laws; and

- As part of a settlement of federal litigation, the Arizona Attorney General has issued “informal guidance” to state law enforcement officers stating that officers may not prolong detentions to perform immigration checks, and instructing officers that they could choose not to perform immigration checks on lawful detainees or arrestees under a number of different circumstances.

Due to these court rulings and other developments, I have concluded that City employees who travel to Arizona no longer face a risk of racial profiling and unfounded detentions from SB 1070 that is materially higher than in other states. Accordingly, I am ending steps previously taken to cease all business-related travel by City employees to the state of Arizona.