

Judge Sparks heats up hearing over Texas ‘sanctuary cities’ ban

By [Philip Jankowski](#) - American-Statesman Staff



Austin Mayor Steve Adler denounces Senate Bill 4 while speaking to protestors outside the federal courthouse in San Antonio on Monday. Many cities across Texas, including Austin, San Antonio, Dallas and El Paso have filed suit against the controversial Senate Bill 4, commonly known as the “sanctuary cities” ban.

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Highlights

- Federal judge Sam Sparks calls city of Austin’s involvement in lawsuit “a lot of advertisement.”

Judge declined to rule on several motions from each side, gave no timeline.

Thursday’s first hearing in Texas’ “sanctuary cities” lawsuit against Austin and Travis County was far more pugilistic than a [hearing Monday in San Antonio](#) on a related suit.

But the punches didn’t come from the lawyers for Texas Attorney General Ken Paxton’s office, or the cities he sued. Instead, they came from federal District Court Judge Sam Sparks.

Sparks, who is known for bruising the egos of attorneys in his court, on multiple occasions cut lawyers off in midsentence, dismissing their arguments before they had been fully aired. Though nominated to the court by Republican President George H.W. Bush, Sparks went after both sides equally.

[Paxton sued Austin and later Travis County](#) just hours after [Gov. Greg Abbott signed Senate Bill 4](#) into law, in what was seen at the time as a pre-emptive strike to have the law declared constitutional before it faced legal challenges.

The judge suggested that if that's indeed what Paxton wants, then he might be disappointed.

"I don't have the authority to do that," Sparks said. "A lot of people think that federal judges can predict the future."

Sparks made no rulings and gave no timeline on when he might decide on motions filed by both sides. Similar motions made in Monday's hearing in San Antonio also haven't been ruled upon.

[SB 4 created civil and criminal penalties](#) for police and elected officials — including arrest or removal from office — if they block cooperation with federal requests to detain jail inmates suspected of being in the country illegally. The new law also allows police to inquire about a person's immigration status during routine police encounters, such as traffic stops.

Proponents of the law say it is a public safety issue that would keep criminals off the streets and prevent them from evading immigration hearings that would lead to deportations. Opponents say SB 4 will lead to racial profiling and break apart immigrant families over minor infractions

Paxton brought the lawsuit because his office foresaw jurisdictions like Austin and Travis County violating SB 4 in the light of [Travis County Sheriff Sally Hernandez's jail policy](#) that would release many inmates despite receiving detention requests, known as "detainers," from U.S. Immigration and Customs Enforcement.

City of Austin lawyers have argued that that case should be dismissed because it only offered hypothetical violations. Sparks appeared to agree.

"You don't have any facts to show a factual basis for a constitutional ruling," Sparks said.

Attorney David Hacker, with the attorney general's office, disagreed, arguing the suit in San Antonio showed a conflict between the state and cities and that Austin should be considered the proper venue because it is where the law was debated and signed.

"It becomes effective on Sept. 1, but it is still the law of Texas," Hacker said.

Consolidating both suits and setting them in Sparks' court might be more advantageous for Paxton's office than if the San Antonio suit gets primacy.

The federal judge presiding over the San Antonio case, Judge Orlando Garcia, was nominated by President Bill Clinton. Garcia [ruled recently that immigration detainees are unconstitutional](#).

Sparks seemed to suspect the state might prefer for the suit to remain in his court. At one point he asked Hacker, "What's wrong with Judge Garcia?"

"I have nothing wrong with Judge Garcia," Hacker replied.

Multiple times Sparks put out a hypothetical scenario of immigration officials requesting an immigration hold on an inmate at the county jail. But local policy allows that inmate to be released once he has posted bond or resolved his criminal charges.

“And he goes out and he murders someone,” Sparks said. “Tell me why there is no charge to the sheriff for aiding and abetting a state criminal charge?”

Sparks later said he believed an argument could be made for charging a local official with a crime in that case, but he doubted it would happen.

Several times, Sparks invited lawyers for both sides to come to his regular hearings for immigrants suspected of illegal re-entry into the U.S., noting that many have lengthy criminal records.

“The whole argument, neither side says it is about immigration,” Sparks said. “Everybody has their views. That’s why I wish everyone would come this Friday to see what everyone doesn’t know.”

Even though the city of Austin, Mayor Steve Adler and every member of the Austin City Council were named as defendants in the case, Sparks called the city’s involvement in the suit “a lot of advertisement.”

“They don’t have any authority here, but they are here anyway,” he said.

Sparks then cut off the city’s attorney, Michael Siegel, in midargument, telling him to sit down.

After the hearing, Siegel said that Sparks appeared to be less concerned about the legal basis of challenges to SB 4 and more concerned that his court was being used for political purposes.

“He scolded the city of Austin for being involved because he said it was just politics,” Siegel said. “Obviously we disagree. We feel like Senate Bill 4 will impact our ability to provide for public safety. But today, Judge Sparks didn’t seem interested in that argument.”