
SECOND SUBSTITUTE SENATE BILL 5689

State of Washington

65th Legislature

2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators Wellman, Saldaña, Nelson, Keiser, Hasegawa, McCoy, Carlyle, Pedersen, Chase, Ranker, Conway, Darneille, and Kuderer)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to establishing a statewide policy supporting
2 Washington state's economy and immigrants' role in the workplace;
3 adding new sections to chapter 43.17 RCW; adding a new section to
4 chapter 43.330 RCW; adding a new section to chapter 43.10 RCW; adding
5 a new section to chapter 10.93 RCW; creating new sections; repealing
6 RCW 10.70.140 and 10.70.150; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington
9 state has a thriving economy that spans both east and west, and
10 encompasses agriculture, food processing, timber, construction,
11 health care, technology, and the hospitality industries.

12 (2) The legislature also finds that Washington employers rely on
13 a diverse workforce to ensure the economic vitality of the state.
14 Nearly one million Washingtonians are immigrants, which is one out of
15 every seven people in the state. Immigrants make up over sixteen
16 percent of the workforce. In addition, fifteen percent of all
17 business owners in the state were born outside the country, and these
18 business owners have a large impact on the economy through innovation
19 and the creation of jobs. Immigrants make a significant contribution
20 to the economic vitality of this state, and it is essential that the

1 state have policies that recognize their importance to Washington's
2 economy.

3 (3) In recognition of this significant contribution to the
4 overall prosperity and strength of Washington state, the legislature,
5 therefore, has a substantial and compelling interest in ensuring the
6 state of Washington remains a place where the rights and dignity of
7 all residents are maintained and protected in order to keep
8 Washington working.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.17
10 RCW to read as follows:

11 (1) "Civil immigration warrant" means any warrant for a violation
12 of federal civil immigration law, and includes civil immigration
13 warrants entered in the national crime information center database.

14 (2) "Federal immigration authority" means any officer, employee,
15 or person otherwise paid by or acting as an agent of United States
16 immigration and customs enforcement, or United States customs and
17 border protection, or any division thereof, or any other officer,
18 employee, or person otherwise paid by or acting as an agent of the
19 United States department of homeland security, who is charged with
20 immigration enforcement.

21 (3) "Health facility" has the same meaning as the term "health
22 care facility" provided in RCW 70.175.020, and includes substance
23 abuse treatment facilities.

24 (4) "Hold request" means a United States immigration and customs
25 enforcement or United States customs and border protection request
26 that a local law enforcement agency maintain custody of an individual
27 currently in its custody beyond the time he or she would otherwise be
28 eligible for release in order to facilitate transfer to United States
29 immigration and customs enforcement and includes, but is not limited
30 to, department of homeland security form I-247A or prior or
31 subsequent version of form I-247.

32 (5) "Immigration or citizenship status" means all matters
33 regarding questions of citizenship of the United States or any other
34 country, the authority to reside in or otherwise be present in the
35 United States, the time or manner of a person's entry into the United
36 States, or any other civil immigration matter enforced by the
37 department of homeland security or other federal agency charged with
38 the enforcement of civil immigration laws.

1 (6) "Judicial warrant" means a warrant based on probable cause
2 and issued by a federal judge or a federal magistrate judge that
3 authorizes federal immigration authorities to take into custody the
4 person who is the subject of the warrant.

5 (7) "Local law enforcement agency" means any agency of a city,
6 county, special district, or other political subdivision of the state
7 that is authorized to enforce criminal statutes, regulations, or
8 local ordinances; or to operate jails or to maintain custody of
9 individuals in jails; or to operate juvenile detention facilities or
10 to maintain custody of individuals in juvenile detention facilities;
11 or to monitor compliance with probation or parole conditions.

12 (8) "Notification request" means a United States immigration and
13 customs enforcement or a United States customs and border protection
14 request that a local law enforcement agency inform either agency of
15 the release date and time in advance of the public of an individual
16 in its custody and includes, but is not limited to, the department of
17 homeland security's form I-247N.

18 (9) "Public schools" means all public elementary and secondary
19 schools under the jurisdiction of local governing boards or a charter
20 school board and all institutions of higher education as defined in
21 RCW 28B.10.016.

22 (10) "School resource officers and security departments" includes
23 resource officers, police, and security departments of charter
24 schools, county offices of education, schools, school districts, and
25 institutions of higher education as defined in RCW 28B.10.016.

26 (11) "State agency" has the same meaning as provided in RCW
27 7.60.005.

28 (12) "Transfer request" means a United States immigration and
29 customs enforcement request that a local law enforcement agency
30 facilitate the transfer of an individual in its custody to the United
31 States immigration and customs enforcement or the United States
32 customs and border protection and includes, but is not limited to,
33 the department of homeland security's form I-247X.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330
35 RCW to read as follows:

36 (1) A keep Washington working statewide work group shall be
37 established within the department. The work group must:

1 (a) Develop strategies with private sector businesses, labor, and
2 immigrant advocacy organizations to support current and future
3 industries across the state;

4 (b) Conduct research on methods to strengthen career pathways for
5 immigrants and create and enhance partnerships with projected growth
6 industries;

7 (c) Support business and agriculture leadership, civic groups,
8 government, and immigrant advocacy organizations in a statewide
9 effort to provide predictability and stability to the workforce in
10 the agriculture industry;

11 (d) Recommend approaches to improve Washington's ability to
12 attract and retain immigrant business owners that provide new
13 business and trade opportunities.

14 (2) The work group must consist of eleven representatives, each
15 serving a term of three years, representing members from
16 geographically diverse immigrant advocacy groups, professional
17 associations representing business, labor organizations with a
18 statewide presence, agriculture and immigrant legal interests, faith-
19 based community nonprofit organizations, legal advocacy groups
20 focusing on immigration and criminal justice, academic institutions,
21 and law enforcement. The terms of the members must be staggered.
22 Members of the work group must select a chair from among the
23 membership. The work group must meet at least four times a year and
24 hold meetings in various locations throughout the state. Following
25 each meeting, the work group must report the minutes and meeting
26 summary to the department on its status. The department must provide
27 a report to the legislature annually.

28 (3) In addition to the duties and powers described in RCW
29 43.330.040, it is the director's duty to provide support to the work
30 group.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.10
32 RCW to read as follows:

33 The attorney general, in consultation with the appropriate
34 stakeholders, must publish model policies for limiting immigration
35 enforcement to the fullest extent possible consistent with federal
36 and state law at public schools, health facilities operated by the
37 state or a political subdivision of the state, courthouses, and
38 shelters, to ensure they remain safe and accessible to all Washington
39 residents, regardless of immigration or citizenship status within

1 three months after the effective date of this section. All public
2 schools, health facilities operated by the state or a political
3 subdivision of the state, and courthouses must implement the model
4 policy, or an equivalent policy. All other organizations and entities
5 that provide services related to physical or mental health and
6 wellness, education, or access to justice, are encouraged to adopt
7 the model policy.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.17
9 RCW to read as follows:

10 (1) All state agencies that regularly receive requests from a
11 federal immigration authority for assistance with immigration
12 enforcement must, within six months after the effective date of this
13 section, review their confidentiality policies and identify any
14 changes necessary to ensure that information collected from
15 individuals is limited to that necessary to perform agency duties and
16 is not used or disclosed for any other purpose. Any necessary changes
17 to those policies must be made as expeditiously as possible,
18 consistent with agency or department procedures. These policies must
19 make clear that public employees may not condition services or
20 request information or proof regarding a person's immigration or
21 citizenship status, or place of birth, except as required by law. The
22 policies must also ensure that public services are available to, and
23 public employees must serve, all Washington residents without regard
24 to immigration or citizenship status.

25 (2) For any databases operated by state and local law enforcement
26 agencies, including databases maintained for the agency by private
27 vendors, the attorney general shall, by January 1, 2019, in
28 consultation with appropriate stakeholders, publish guidance, audit
29 criteria, and training recommendations aimed at ensuring that those
30 databases are governed in a manner that limits the availability of
31 information therein to the fullest extent practicable and consistent
32 with federal and state law, to anyone or any entity for the purpose
33 of immigration enforcement. All state and local law enforcement
34 agencies must either:

35 (a) Adopt necessary changes to database governance policies
36 consistent with that guidance; or

37 (b) Notify the attorney general that the agency is not adopting
38 the changes to its database governance policy consistent with the
39 guidance, state the reasons that the agency is not adopting the

1 changes, and provide the attorney general with a copy of the agency's
2 database governance policy.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.17
4 RCW to read as follows:

5 No state agency or department, including law enforcement, may use
6 agency or department funds, facilities, property, equipment, or
7 personnel to investigate, enforce, cooperate with, or assist in the
8 investigation or enforcement of any registration or surveillance
9 programs or any other laws, rules, or policies that target Washington
10 residents solely on the basis of race, religion, immigration, or
11 citizenship status, or national or ethnic origin.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 10.93
13 RCW to read as follows:

14 (1) The legislature finds that it is not the primary purpose of
15 state and local law enforcement agencies, school resource officers,
16 or security departments to enforce civil federal immigration law. The
17 legislature further finds that the immigration status of an
18 individual or an individual's presence in, entry, or reentry to, or
19 employment in the United States alone, is not a matter for police
20 action, and that United States immigration and customs enforcement
21 has primary jurisdiction for enforcement of the provisions of Title 8
22 U.S.C. dealing with illegal entry.

23 (2) State and local law enforcement agencies, school resource
24 officers, and security departments may not:

25 (a) Inquire into or collect information about an individual's
26 immigration or citizenship status or place of birth;

27 (b) Respond to notification requests from federal immigration
28 authorities.

29 (3) State and local law enforcement agencies may not provide
30 nonpublicly available personal information about an individual to
31 federal immigration authorities in a noncriminal matter, except as
32 required by law.

33 (4) State and local law enforcement agencies may not give federal
34 immigration authorities access to interview individuals in custody in
35 a noncriminal matter, except as required by law.

36 (5) Notwithstanding any other provision of law, state or local
37 law enforcement agencies, school resource officers, or security
38 departments may not transfer or detain an individual to federal

1 immigration authorities absent a judicial warrant establishing
2 probable cause to believe that the person has committed a criminal
3 offense. This subsection does not limit the scope of any other
4 subsection of this section.

5 (6) Nothing in this section prevents a state agency or department
6 or any state or local law enforcement agency, including school
7 resource officers or security departments, from responding to a
8 request from federal immigration authorities for information about a
9 specific person's previous criminal arrests or convictions where
10 otherwise permitted by state law or from responding to a lawful
11 subpoena.

12 (7) An individual may not be detained solely for the purpose of
13 determining immigration status.

14 (8) An individual may not be taken into custody, or held in
15 custody, based solely on a civil immigration warrant.

16 (9) An individual must be provided all rights due to the
17 individual, including consular notification as required or authorized
18 by treaty or applicable law, regardless of the individual's
19 immigration status.

20 (10) An agency may not deny services, benefits, privileges, or
21 opportunities to individuals in custody, or under community custody
22 or probation status, on the basis of the presence of an immigration
23 detainer, hold, notification request, or civil immigration warrant.

24 (11) No state and local law enforcement officer may be placed
25 under the supervision of federal agencies solely for immigration
26 enforcement. Any officer placed under the supervision of federal
27 agencies remains subject to Washington law governing conduct of peace
28 officers and the policies of the employing agency.

29 NEW SECTION. **Sec. 8.** In accordance with Title 8 U.S.C. Sec.
30 1373, nothing in this act prohibits any state or local agency or
31 agent from sending to, or receiving from, federal immigration
32 authorities the citizenship or immigration status of a person, or
33 maintaining such information. Nor does it prohibit a state or local
34 agency from exchanging the citizenship or immigration status of an
35 individual with any other federal, state, or local government agency.

36 NEW SECTION. **Sec. 9.** This act may be known and cited as the
37 keep Washington working act.

1 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 10.70.140 (Aliens committed—Notice to immigration
4 authority) and 1992 c 7 s 29 & 1925 ex.s. c 169 s 1; and

5 (2) RCW 10.70.150 (Aliens committed—Copies of clerk's records)
6 and 1925 ex.s. c 169 s 2.

7 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of
9 the state government and its existing public institutions, and takes
10 effect immediately.

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