

E2SSB 5497 - H COMM AMD
By Committee on Appropriations

ADOPTED AND ENGRAVED 4/12/19

1 Strike everything after the enacting clause and insert the
2 following:

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

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

18 (3) In recognition of this significant contribution to the
19 overall prosperity and strength of Washington state, the legislature,
20 therefore, has a substantial and compelling interest in ensuring the
21 state of Washington remains a place where the rights and dignity of
22 all residents are maintained and protected in order to keep
23 Washington working.

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

26 The definitions in this section apply throughout this section and
27 sections 3 through 9 of this act unless the context clearly requires
28 otherwise.

29 (1) "Civil immigration warrant" means any warrant for a violation
30 of federal civil immigration law issued by a federal immigration
31 authority. A "civil immigration warrant" includes, but is not limited

1 to, administrative warrants issued on forms I-200 or I-203, or their
2 successors, and civil immigration warrants entered in the national
3 crime information center database.

4 (2) "Court order" means a directive issued by a judge or
5 magistrate under the authority of Article III of the United States
6 Constitution or Article IV of the Washington Constitution. A "court
7 order" includes but is not limited to warrants and subpoenas.

8 (3) "Federal immigration authority" means any officer, employee,
9 or person otherwise paid by or acting as an agent of the United
10 States department of homeland security including but not limited to
11 its subagencies, immigration and customs enforcement and customs and
12 border protection, and any present or future divisions thereof,
13 charged with immigration enforcement.

14 (4) "Health facility" has the same meaning as the term "health
15 care facility" provided in RCW 70.175.020, and includes substance
16 abuse treatment facilities.

17 (5) "Hold request" or "immigration detainer request" means a
18 request from a federal immigration authority, without a court order,
19 that a state or local law enforcement agency maintain custody of an
20 individual currently in its custody beyond the time he or she would
21 otherwise be eligible for release in order to facilitate transfer to
22 a federal immigration authority. A "hold request" or "immigration
23 detainer request" includes, but is not limited to, department of
24 homeland security form I-247A or prior or subsequent versions of form
25 I-247.

26 (6) "Immigration detention agreement" means any contract,
27 agreement, intergovernmental service agreement, or memorandum of
28 understanding that permits a state or local law enforcement agency to
29 house or detain individuals for federal civil immigration violations.

30 (7) "Immigration or citizenship status" means as such status has
31 been established to such individual under the immigration and
32 nationality act.

33 (8) "Language services" includes but is not limited to
34 translation, interpretation, training, or classes. Translation means
35 written communication from one language to another while preserving
36 the intent and essential meaning of the original text. Interpretation
37 means transfer of an oral communication from one language to another.

38 (9) "Local government" means any governmental entity other than
39 the state, federal agencies, or an operating system established under

1 chapter 43.52 RCW. It includes, but is not limited to, cities,
2 counties, school districts, and special purpose districts.

3 (10) "Local law enforcement agency" means any agency of a city,
4 county, special district, or other political subdivision of the state
5 that is a general authority Washington law enforcement agency, as
6 defined by RCW 10.93.020, or that is authorized to operate jails or
7 to maintain custody of individuals in jails; or to operate juvenile
8 detention facilities or to maintain custody of individuals in
9 juvenile detention facilities; or to monitor compliance with
10 probation or parole conditions.

11 (11) "Notification request" means a request from a federal
12 immigration authority that a state or local law enforcement agency
13 inform a federal immigration authority of the release date and time
14 in advance of the release of an individual in its custody.
15 "Notification request" includes, but is not limited to, the
16 department of homeland security's form I-247A, form I-247N, or prior
17 or subsequent versions of such forms.

18 (12) "Physical custody of the department of corrections" means
19 only those individuals detained in a state correctional facility but
20 does not include minors detained pursuant to chapter 13.40 RCW, or
21 individuals in community custody as defined in RCW 9.94A.030.

22 (13) "Public schools" means all public elementary and secondary
23 schools under the jurisdiction of local governing boards or a charter
24 school board and all institutions of higher education as defined in
25 RCW 28B.10.016.

26 (14) "School resource officer" means a commissioned law
27 enforcement officer in the state of Washington with sworn authority
28 to uphold the law and assigned by the employing police department or
29 sheriff's office to work in schools to ensure school safety. By
30 building relationships with students, school resource officers work
31 alongside school administrators and staff to help students make good
32 choices. School resource officers are encouraged to focus on keeping
33 students out of the criminal justice system when possible and not
34 impose criminal sanctions in matters that are more appropriately
35 handled within the educational system.

36 (15) "State agency" has the same meaning as provided in RCW
37 42.56.010.

38 (16) "State law enforcement agency" means any agency of the state
39 of Washington that:

1 (a) Is a general authority Washington law enforcement agency as
2 defined by RCW 10.93.020;

3 (b) Is authorized to operate prisons or to maintain custody of
4 individuals in prisons; or

5 (c) Is authorized to operate juvenile detention facilities or to
6 maintain custody of individuals in juvenile detention facilities.

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

9 (1) A keep Washington working statewide work group is established
10 within the department. The work group must:

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

14 (b) Conduct research on methods to strengthen career pathways for
15 immigrants and create and enhance partnerships with projected growth
16 industries;

17 (c) Support business and agriculture leadership, civic groups,
18 government, and immigrant advocacy organizations in a statewide
19 effort to provide predictability and stability to the workforce in
20 the agriculture industry; and

21 (d) Recommend approaches to improve Washington's ability to
22 attract and retain immigrant business owners that provide new
23 business and trade opportunities.

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

1 (3) In addition to the duties and powers described in RCW
2 43.330.040, it is the director's duty to provide support to the work
3 group.

4 (4) The definitions in section 2 of this act apply to this
5 section.

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

8 (1) The attorney general, in consultation with appropriate
9 stakeholders, must publish model policies within twelve months after
10 the effective date of this section for limiting immigration
11 enforcement to the fullest extent possible consistent with federal
12 and state law at public schools, health facilities operated by the
13 state or a political subdivision of the state, courthouses, and
14 shelters, to ensure they remain safe and accessible to all Washington
15 residents, regardless of immigration or citizenship status.

16 (2) All public schools, health facilities either operated by the
17 state or a political subdivision of the state, and courthouses must:

18 (a) Adopt necessary changes to policies consistent with the model
19 policy; or

20 (b) Notify the attorney general that the agency is not adopting
21 the changes to its policies consistent with the model policy, state
22 the reasons that the agency is not adopting the changes, and provide
23 the attorney general with a copy of the agency's policies.

24 (3) All other organizations and entities that provide services
25 related to physical or mental health and wellness, education, or
26 access to justice, are encouraged to adopt the model policy.

27 (4) Implementation of any policy under this section must be in
28 accordance with state and federal law; policies, grants, waivers, or
29 other requirements necessary to maintain funding; or other agreements
30 related to the operation and functions of the organization, including
31 databases within the organization.

32 (5) The definitions in section 2 of this act apply to this
33 section.

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

36 (1) Except as provided in subsection (3) of this section, no
37 state agency, including law enforcement, may use agency funds,
38 facilities, property, equipment, or personnel to investigate,

1 enforce, cooperate with, or assist in the investigation or
2 enforcement of any federal registration or surveillance programs or
3 any other laws, rules, or policies that target Washington residents
4 solely on the basis of race, religion, immigration, or citizenship
5 status, or national or ethnic origin. This subsection does not apply
6 to any program with the primary purpose of providing persons with
7 services or benefits, or to RCW 9.94A.685.

8 (2) Except as provided in subsection (3) of this section, the
9 state agencies listed in subsections (5) and (6) of this section
10 shall review their policies and identify and make any changes
11 necessary to ensure that:

12 (a) Information collected from individuals is limited to the
13 minimum necessary to comply with subsection (3) of this section;

14 (b) Information collected from individuals is not disclosed
15 except as necessary to comply with subsection (3) of this section or
16 as permitted by state or federal law;

17 (c) Agency employees may not condition services or request
18 information or proof regarding a person's immigration status,
19 citizenship status, or place of birth; and

20 (d) Public services are available to, and agency employees shall
21 serve, all Washington residents without regard to immigration or
22 citizenship status.

23 (3) Nothing in subsection (1) or (2) of this section prohibits
24 the collection, use, or disclosure of information that is:

25 (a) Required to comply with state or federal law;

26 (b) In response to a lawfully issued court order;

27 (c) Necessary to perform agency duties, functions, or other
28 business, as permitted by statute or rule, conducted by the agency
29 that is not related to immigration enforcement;

30 (d) Required to comply with policies, grants, waivers, or other
31 requirements necessary to maintain funding; or

32 (e) In the form of deidentified or aggregated data, including
33 census data.

34 (4) Any changes to agency policies required by this section must
35 be made as expeditiously as possible, consistent with agency
36 procedures. Final policies must be published.

37 (5) The following state agencies shall begin implementation of
38 this section within twelve months after the effective date of this
39 section and demonstrate full compliance by December 1, 2021:

40 (a) Department of licensing;

- (b) Department of labor and industries;
- (c) Employment security department;
- (d) Department of revenue;
- (e) Department of health;
- (f) Health care authority;
- (g) Department of social and health services;
- (h) Department of children, youth, and families;
- (i) Office of the superintendent of public instruction;
- (j) State patrol.

(6) The following state agencies may begin implementation of this section by December 1, 2021, and must demonstrate full compliance by December 1, 2023:

- (a) Department of agriculture;
- (b) Department of financial institutions;
- (c) Department of fish and wildlife;
- (d) Department of natural resources;
- (e) Department of retirement systems;
- (f) Department of services for the blind;
- (g) Department of transportation.

NEW SECTION. **Sec. 6.** A new section is added to chapter 10.93 RCW to read as follows:

(1) The definitions contained in section 2 of this act apply to this section.

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

(3) School resource officers, when acting in their official capacity as a school resource officer, may not:

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

(b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.

1 (4) State and local law enforcement agencies may not:

2 (a) Inquire into or collect information about an individual's
3 immigration or citizenship status, or place of birth unless there is
4 a connection between such information and an investigation into a
5 violation of state or local criminal law; or

6 (b) Provide information pursuant to notification requests from
7 federal immigration authorities for the purposes of civil immigration
8 enforcement, except as required by law.

9 (5) State and local law enforcement agencies may not provide
10 nonpublicly available personal information about an individual,
11 including individuals subject to community custody pursuant to RCW
12 9.94A.701 and 9.94A.702, to federal immigration authorities in a
13 noncriminal matter, except as required by state or federal law.

14 (6)(a) State and local law enforcement agencies may not give
15 federal immigration authorities access to interview individuals about
16 a noncriminal matter while they are in custody, except as required by
17 state or federal law, a court order, or by (b) of this subsection.

18 (b) Permission may be granted to a federal immigration authority
19 to conduct an interview regarding federal immigration violations with
20 a person who is in the custody of a state or local law enforcement
21 agency if the person consents in writing to be interviewed. In order
22 to obtain consent, agency staff shall provide the person with an oral
23 explanation and a written consent form that explains the purpose of
24 the interview, that the interview is voluntary, and that the person
25 may decline to be interviewed or may choose to be interviewed only
26 with the person's attorney present. The form must state explicitly
27 that the person will not be punished or suffer retaliation for
28 declining to be interviewed. The form must be available at least in
29 English and Spanish and explained orally to a person who is unable to
30 read the form, using, when necessary, an interpreter from the
31 district communications center "language line" or other district
32 resources.

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

35 (8) An individual must not be taken into custody, or held in
36 custody, solely for the purposes of determining immigration status or
37 based solely on a civil immigration warrant, or an immigration hold
38 request.

39 (9)(a) To ensure compliance with all treaty obligations,
40 including consular notification, and state and federal laws, on the

1 commitment or detainment of any individual, state and local law
2 enforcement agencies must explain in writing:

3 (i) The individual's right to refuse to disclose their
4 nationality, citizenship, or immigration status; and

5 (ii) That disclosure of their nationality, citizenship, or
6 immigration status may result in civil or criminal immigration
7 enforcement, including removal from the United States.

8 (b) Nothing in this subsection allows for any violation of
9 subsection (4) of this section.

10 (10) A state and local government or law enforcement agency may
11 not deny services, benefits, privileges, or opportunities to
12 individuals in custody, or under community custody pursuant to RCW
13 9.94A.701 and 9.94A.702, or in probation status, on the basis of the
14 presence of an immigration detainer, hold, notification request, or
15 civil immigration warrant, except as required by law or as necessary
16 for classification or placement purposes for individuals in the
17 physical custody of the department of corrections.

18 (11) No state or local law enforcement officer may enter into any
19 contract, agreement, or arrangement, whether written or oral, that
20 would grant federal civil immigration enforcement authority or powers
21 to state and local law enforcement officers, including but not
22 limited to agreements created under 8 U.S.C. Sec. 1357(g), also known
23 as 287(g) agreements.

24 (12) (a) No state agency or local government or law enforcement
25 officer may enter into an immigration detention agreement. All
26 immigration detention agreements must be terminated no later than one
27 hundred eighty days after the effective date of this section, except
28 as provided in (b) of this subsection.

29 (b) Any immigration detention agreement in effect prior to
30 January 1, 2019, and under which a payment was made between July 1,
31 2017, and December 31, 2018, may remain in effect until the date of
32 completion or December 31, 2021, whichever is earlier.

33 (13) No state or local law enforcement agency or school resource
34 officer may enter into or renew a contract for the provision of
35 language services from federal immigration authorities, nor may any
36 language services be accepted from such for free or otherwise.

37 (14) The department of corrections may not give federal
38 immigration authorities access to interview individuals about federal
39 immigration violations while they are in custody, except as required
40 by state or federal law or by court order, unless such individuals

1 consent to be interviewed in writing. Before agreeing to be
2 interviewed, individuals must be advised that they will not be
3 punished or suffer retaliation for declining to be interviewed.

4 (15) Subsections (3) through (6) of this section do not apply to
5 individuals who are in the physical custody of the department of
6 corrections.

7 (16) Nothing in this section prohibits the collection, use, or
8 disclosure of information that is:

- 9 (a) Required to comply with state or federal law; or
10 (b) In response to a lawfully issued court order.

11 **NEW SECTION.** **Sec. 7.** To ensure state and law enforcement
12 agencies are able to foster the community trust necessary to maintain
13 public safety, within twelve months of the effective date of this
14 section, the attorney general must, in consultation with appropriate
15 stakeholders, publish model policies, guidance, and training
16 recommendations consistent with this act and state and local law,
17 aimed at ensuring that state and local law enforcement duties are
18 carried out in a manner that limits, to the fullest extent
19 practicable and consistent with federal and state law, engagement
20 with federal immigration authorities for the purpose of immigration
21 enforcement. All state and local law enforcement agencies must
22 either:

- 23 (1) Adopt policies consistent with that guidance; or
24 (2) Notify the attorney general that the agency is not adopting
25 the guidance and model policies, state the reasons that the agency is
26 not adopting the model policies and guidance, and provide the
27 attorney general with a copy of the agency's policies to ensure
28 compliance with this act.

29 **NEW SECTION.** **Sec. 8.** No section of this act is intended to
30 limit or prohibit any state or local agency or officer from:

31 (1) Sending to, or receiving from, federal immigration
32 authorities the citizenship or immigration status of a person, or
33 maintaining such information, or exchanging the citizenship or
34 immigration status of an individual with any other federal, state, or
35 local government agency, in accordance with 8 U.S.C. Sec. 1373; or

- 36 (2) Complying with any other state or federal law.

1 **NEW SECTION.** **Sec. 9.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application
7 to the agencies concerned. Rules adopted under this act must meet
8 federal requirements that are a necessary condition to the receipt of
9 federal funds by the state.

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

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

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

16 **NEW SECTION.** **Sec. 11.** If specific funding for the purposes of
17 this act, referencing this act by bill or chapter number, is not
18 provided by June 30, 2019, in the omnibus appropriations act, this
19 act is null and void.

20 **NEW SECTION.** **Sec. 12.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of
22 the state government and its existing public institutions, and takes
23 effect immediately."

24 Correct the title.

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