
SUBSTITUTE SENATE BILL 5497

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Wellman, Nguyen, Hasegawa, Kuderer, Frockt, Das, Keiser, Saldaña, Mullet, McCoy, Randall, Cleveland, Hunt, Lias, Conway, and Darneille)

READ FIRST TIME 02/22/19.

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 The definitions in this section apply throughout this section and
12 sections 3 through 8 of this act unless the context clearly requires
13 otherwise.

14 (1) "Civil immigration warrant" means any warrant for a violation
15 of federal civil immigration law issued by a federal immigration
16 authority. A "civil immigration warrant" includes, but is not limited
17 to, administrative warrants issued on forms I-200 or I-203, or their
18 successors, and civil immigration warrants entered in the national
19 crime information center database.

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

24 (3) "Federal immigration authority" means any officer, employee,
25 or person otherwise paid by or acting as an agent of the United
26 States department of homeland security including but not limited to
27 its subagencies, immigration and customs enforcement and customs and
28 border protection, and any present or future divisions thereof,
29 charged with immigration enforcement.

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

33 (5) "Hold request" or "immigration detainer request" means a
34 request from a federal immigration authority, without a court order,
35 that a state or local law enforcement agency maintain custody of an
36 individual currently in its custody beyond the time he or she would
37 otherwise be eligible for release in order to facilitate transfer to
38 a federal immigration authority. A "hold request" or "immigration
39 detainer request" includes, but is not limited to, department of

1 homeland security form I-247A or prior or subsequent versions of form
2 I-247.

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

7 (7) "Immigration or citizenship status" means a person's recorded
8 citizenship or immigration status, as such status is defined in the
9 immigration and nationality act.

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

15 (9) "Local government" means any governmental entity other than
16 the state, federal agencies, or an operating system established under
17 chapter 43.52 RCW. It includes, but is not limited to, cities,
18 counties, school districts, and special purpose districts.

19 (10) "Local law enforcement agency" means any agency of a city,
20 county, special district, or other political subdivision of the state
21 that is a general authority Washington law enforcement agency, as
22 defined by RCW 10.93.020, or that is authorized to operate jails or
23 to maintain custody of individuals in jails; or to operate juvenile
24 detention facilities or to maintain custody of individuals in
25 juvenile detention facilities; or to monitor compliance with
26 probation or parole conditions.

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

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

38 (13) "Public schools" means all public elementary and secondary
39 schools under the jurisdiction of local governing boards or a charter

1 school board and all institutions of higher education as defined in
2 RCW 28B.10.016.

3 (14) "School resource officer" means any person who contracts
4 with or whose law enforcement agency contracts with any charter
5 school, educational service district, school, school district, or
6 institution of higher education as defined in RCW 28B.10.016 to
7 provide law enforcement services, or any law enforcement officer
8 whose primary responsibility is to provide law enforcement to
9 schools.

10 (15) "State agency" has the same meaning as provided in RCW
11 42.56.010.

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

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

16 (b) Is authorized to operate prisons or to maintain custody of
17 individuals in prisons; or

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

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

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

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

27 (b) Conduct research on methods to strengthen career pathways for
28 immigrants and create and enhance partnerships with projected growth
29 industries;

30 (c) Support business and agriculture leadership, civic groups,
31 government, and immigrant advocacy organizations in a statewide
32 effort to provide predictability and stability to the workforce in
33 the agriculture industry; and

34 (d) Recommend approaches to improve Washington's ability to
35 attract and retain immigrant business owners that provide new
36 business and trade opportunities.

37 (2) The work group must consist of eleven representatives, each
38 serving a term of three years, representing members from
39 geographically diverse immigrant advocacy groups, professional

1 associations representing business, labor organizations with a
2 statewide presence, agriculture and immigrant legal interests, faith-
3 based community nonprofit organizations, legal advocacy groups
4 focusing on immigration and criminal justice, academic institutions,
5 and law enforcement. The terms of the members must be staggered.
6 Members of the work group must select a chair from among the
7 membership. The work group must meet at least four times a year and
8 hold meetings in various locations throughout the state. Following
9 each meeting, the work group must report on its status, including
10 meeting minutes and a meeting summary to the department. The
11 department must provide a report to the legislature annually.

12 (3) In addition to the duties and powers described in RCW
13 43.330.040, it is the director's duty to provide support to the work
14 group.

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

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

19 (1) The attorney general, in consultation with appropriate
20 stakeholders, including the Washington association of prosecuting
21 attorneys and the Washington association of sheriffs and police
22 chiefs, must publish model policies within six months after the
23 effective date of this section for limiting immigration enforcement
24 to the fullest extent possible consistent with federal and state law
25 at public schools, health facilities operated by the state or a
26 political subdivision of the state, courthouses, and shelters, to
27 ensure they remain safe and accessible to all Washington residents,
28 regardless of immigration or citizenship status.

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

31 (a) Adopt necessary changes to policies consistent with the model
32 policy; or

33 (b) Notify the attorney general that the agency is not adopting
34 the changes to its policies consistent with the model policy, state
35 the reasons that the agency is not adopting the changes, and provide
36 the attorney general with a copy of the agency's policies.

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

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

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

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

10 (1) Except as provided in subsection (3) of this section, no
11 state agency, including law enforcement, may use agency funds,
12 facilities, property, equipment, or personnel to investigate,
13 enforce, cooperate with, or assist in the investigation or
14 enforcement of any federal registration or surveillance programs or
15 any other laws, rules, or policies that target Washington residents
16 solely on the basis of race, religion, immigration, or citizenship
17 status, or national or ethnic origin. This subsection does not apply
18 to any program with the primary purpose of providing persons with
19 services or benefits, or to RCW 9.94A.685.

20 (2) Except as provided in subsection (3) of this section, the
21 state agencies listed in subsections (5) and (6) of this section
22 shall review their policies and identify any changes necessary to
23 ensure that:

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

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

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

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

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

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

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

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

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

6 (e) In the form of deidentified or aggregated data, including
7 census data.

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

11 (5) The following state agencies shall begin implementation of
12 this section within six months after the effective date of this
13 section and demonstrate full compliance by December 1, 2021:

14 (a) Department of licensing;

15 (b) Department of labor and industries;

16 (c) Employment security department;

17 (d) Department of revenue;

18 (e) Department of health;

19 (f) Health care authority;

20 (g) Department of social and health services;

21 (h) Department of children, youth, and families;

22 (i) Office of the superintendent of public instruction;

23 (j) State patrol.

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

27 (a) Department of agriculture;

28 (b) Department of financial institutions;

29 (c) Department of fish and wildlife;

30 (d) Department of natural resources;

31 (e) Department of retirement systems;

32 (f) Department of services for the blind;

33 (g) Department of transportation.

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

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

38 (2) The legislature finds that it is not the primary purpose of
39 state and local law enforcement agencies or school resource officers

1 to enforce civil federal immigration law. The legislature further
2 finds that the immigration status of an individual or an individual's
3 presence in, entry, or reentry to, or employment in the United States
4 alone, is not a matter for police action, and that United States
5 immigration and customs enforcement has primary jurisdiction for
6 enforcement of the provisions of Title 8 U.S.C. dealing with illegal
7 entry.

8 (3) For any databases operated by state and local law enforcement
9 agencies, including databases maintained for the agency by private
10 vendors, the attorney general shall, by January 1, 2020, in
11 consultation with appropriate stakeholders, publish guidance, audit
12 criteria, and training recommendations aimed at ensuring that those
13 databases are governed in a manner that limits the availability of
14 information therein to the fullest extent practicable and consistent
15 with federal and state law, to anyone or any entity for the purpose
16 of immigration enforcement. All state and local law enforcement
17 agencies must either:

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

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

25 (4) State and local law enforcement agencies and school resource
26 officers may not:

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

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

32 (5) State and local law enforcement agencies may not provide
33 nonpublicly available personal information about an individual,
34 including individuals subject to community custody pursuant to RCW
35 9.94A.701 and 9.94A.702, to federal immigration authorities in a
36 noncriminal matter, except as required by state or federal law.

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

1 (b) Permission may be granted to a federal immigration authority
2 to conduct an interview regarding federal immigration violations with
3 a person who is in the custody of a state or local law enforcement
4 agency if the person consents in writing to be interviewed. In order
5 to obtain consent, agency staff shall provide the person with an oral
6 explanation and a written consent form that explains the purpose of
7 the interview, that the interview is voluntary, and that the person
8 may decline to be interviewed or may choose to be interviewed only
9 with the person's attorney present. The form must state explicitly
10 that the person will not be punished or suffer retaliation for
11 declining to be interviewed. The form must be available at least in
12 English and Spanish and explained orally to a person who is unable to
13 read the form, using, when necessary, an interpreter from the
14 district communications center "language line" or other district
15 resources.

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

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

22 (9) (a) To ensure compliance with all treaty obligations,
23 including consular notification, and state and federal laws, on the
24 commitment or detainment of any individual, state and local law
25 enforcement agencies must explain in writing:

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

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

31 (b) Nothing in this subsection allows for any violation of
32 subsection (4) of this section.

33 (10) A state and local government or law enforcement agency may
34 not deny services, benefits, privileges, or opportunities to
35 individuals in custody, or under community custody pursuant to RCW
36 9.94A.701 and 9.94A.702, or in probation status, on the basis of the
37 presence of an immigration detainer, hold, notification request, or
38 civil immigration warrant, except as required by law or as necessary
39 for classification or placement purposes for individuals in the
40 physical custody of the department of corrections.

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

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

12 (b) Any immigration detention agreement in effect prior to
13 January 1, 2019, and under which a payment was made between July 1,
14 2017, and December 31, 2018, may remain in effect until the date of
15 completion or December 31, 2021, whichever is earlier.

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

20 (14) The department of corrections may not give federal
21 immigration authorities access to interview individuals about federal
22 immigration violations while they are in custody, except as required
23 by state or federal law or by court order, unless such individuals
24 consent to be interviewed in writing. Before agreeing to be
25 interviewed, individuals must be advised that they will not be
26 punished or suffer retaliation for declining to be interviewed.

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

30 NEW SECTION. **Sec. 7.** No section of this act is intended to
31 limit or prohibit any state or local agency or officer from:

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

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

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

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