

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5497

66th Legislature
2019 Regular Session

Passed by the Senate April 24, 2019
Yeas 27 Nays 21

President of the Senate

Passed by the House April 12, 2019
Yeas 57 Nays 38

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5497** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5497

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

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

READ FIRST TIME 03/01/19.

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 9 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 as such status has
8 been established to such individual under the immigration and
9 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 a commissioned law
4 enforcement officer in the state of Washington with sworn authority
5 to uphold the law and assigned by the employing police department or
6 sheriff's office to work in schools to ensure school safety. By
7 building relationships with students, school resource officers work
8 alongside school administrators and staff to help students make good
9 choices. School resource officers are encouraged to focus on keeping
10 students out of the criminal justice system when possible and not
11 impose criminal sanctions in matters that are more appropriately
12 handled within the educational system.

13 (15) "State agency" has the same meaning as provided in RCW
14 42.56.010.

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

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

19 (b) Is authorized to operate prisons or to maintain custody of
20 individuals in prisons; or

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

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

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

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

30 (b) Conduct research on methods to strengthen career pathways for
31 immigrants and create and enhance partnerships with projected growth
32 industries;

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

37 (d) Recommend approaches to improve Washington's ability to
38 attract and retain immigrant business owners that provide new
39 business and trade opportunities.

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

15 (3) In addition to the duties and powers described in RCW
16 43.330.040, it is the director's duty to provide support to the work
17 group.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) Required to comply with state or federal law;
- 2 (b) In response to a lawfully issued court order;
- 3 (c) Necessary to perform agency duties, functions, or other
- 4 business, as permitted by statute or rule, conducted by the agency
- 5 that is not related to immigration enforcement;
- 6 (d) Required to comply with policies, grants, waivers, or other
- 7 requirements necessary to maintain funding; or
- 8 (e) In the form of deidentified or aggregated data, including
- 9 census data.

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

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

- 16 (a) Department of licensing;
- 17 (b) Department of labor and industries;
- 18 (c) Employment security department;
- 19 (d) Department of revenue;
- 20 (e) Department of health;
- 21 (f) Health care authority;
- 22 (g) Department of social and health services;
- 23 (h) Department of children, youth, and families;
- 24 (i) Office of the superintendent of public instruction;
- 25 (j) State patrol.

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

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

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

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

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

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

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

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

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

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

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

25 (5) State and local law enforcement agencies may not provide
26 nonpublicly available personal information about an individual,
27 including individuals subject to community custody pursuant to RCW
28 9.94A.701 and 9.94A.702, to federal immigration authorities in a
29 noncriminal matter, except as required by state or federal law.

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

34 (b) Permission may be granted to a federal immigration authority
35 to conduct an interview regarding federal immigration violations with
36 a person who is in the custody of a state or local law enforcement
37 agency if the person consents in writing to be interviewed. In order
38 to obtain consent, agency staff shall provide the person with an oral
39 explanation and a written consent form that explains the purpose of
40 the interview, that the interview is voluntary, and that the person

1 may decline to be interviewed or may choose to be interviewed only
2 with the person's attorney present. The form must state explicitly
3 that the person will not be punished or suffer retaliation for
4 declining to be interviewed. The form must be available at least in
5 English and Spanish and explained orally to a person who is unable to
6 read the form, using, when necessary, an interpreter from the
7 district communications center "language line" or other district
8 resources.

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

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

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

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

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

24 (b) Nothing in this subsection allows for any violation of
25 subsection (4) of this section.

26 (10) A state and local government or law enforcement agency may
27 not deny services, benefits, privileges, or opportunities to
28 individuals in custody, or under community custody pursuant to RCW
29 9.94A.701 and 9.94A.702, or in probation status, on the basis of the
30 presence of an immigration detainer, hold, notification request, or
31 civil immigration warrant, except as required by law or as necessary
32 for classification or placement purposes for individuals in the
33 physical custody of the department of corrections.

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

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

6 (b) Any immigration detention agreement in effect prior to
7 January 1, 2019, and under which a payment was made between July 1,
8 2017, and December 31, 2018, may remain in effect until the date of
9 completion or December 31, 2021, whichever is earlier.

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

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

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

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

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

27 (b) In response to a lawfully issued court order.

28 NEW SECTION. **Sec. 7.** To ensure state and law enforcement
29 agencies are able to foster the community trust necessary to maintain
30 public safety, within twelve months of the effective date of this
31 section, the attorney general must, in consultation with appropriate
32 stakeholders, publish model policies, guidance, and training
33 recommendations consistent with this act and state and local law,
34 aimed at ensuring that state and local law enforcement duties are
35 carried out in a manner that limits, to the fullest extent
36 practicable and consistent with federal and state law, engagement
37 with federal immigration authorities for the purpose of immigration
38 enforcement. All state and local law enforcement agencies must
39 either:

- 1 (1) Adopt policies consistent with that guidance; or
2 (2) Notify the attorney general that the agency is not adopting
3 the guidance and model policies, state the reasons that the agency is
4 not adopting the model policies and guidance, and provide the
5 attorney general with a copy of the agency's policies to ensure
6 compliance with this act.

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

- 9 (1) Sending to, or receiving from, federal immigration
10 authorities the citizenship or immigration status of a person, or
11 maintaining such information, or exchanging the citizenship or
12 immigration status of an individual with any other federal, state, or
13 local government agency, in accordance with 8 U.S.C. Sec. 1373; or
14 (2) Complying with any other state or federal law.

15 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
16 conflict with federal requirements that are a prescribed condition to
17 the allocation of federal funds to the state, the conflicting part of
18 this act is inoperative solely to the extent of the conflict and with
19 respect to the agencies directly affected, and this finding does not
20 affect the operation of the remainder of this act in its application
21 to the agencies concerned. Rules adopted under this act must meet
22 federal requirements that are a necessary condition to the receipt of
23 federal funds by the state.

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

- 26 (1) RCW 10.70.140 (Aliens committed—Notice to immigration
27 authority) and 1992 c 7 s 29 & 1925 ex.s. c 169 s 1; and
28 (2) RCW 10.70.150 (Aliens committed—Copies of clerk's records)
29 and 1925 ex.s. c 169 s 2.

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

34 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- **END** ---