
SUBSTITUTE HOUSE BILL 1716

State of Washington

64th Legislature

2015 Regular Session

By House Public Safety (originally sponsored by Representatives Moscoso, Appleton, Sells, Ortiz-Self, Robinson, Jenkins, Gregerson, Ryu, Peterson, Walkinshaw, Santos, Pollet, and Farrell)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to state and local enforcement of federal
2 immigration detainers and administrative warrants; adding a new
3 chapter to Title 10 RCW; repealing RCW 10.70.140; and prescribing
4 penalties.

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

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 Washington family unity act.

8 NEW SECTION. **Sec. 2.** (1) The legislature finds that immigration
9 enforcement is the responsibility of the federal government. The
10 undertaking of immigration enforcement by state and local law
11 enforcement agencies undermines their ability to carry out their
12 primary missions, can result in constitutional violations, and puts
13 local jurisdictions at risk of incurring liability.

14 (2) The legislature also finds that ensuring that all victims of
15 crime are able to access the protections available to them under law
16 is in the best interest of victims, law enforcement, and the entire
17 community. Immigrants are frequently reluctant to cooperate with or
18 contact law enforcement when they are victims of crimes, and the
19 protections available to immigrants under the law are designed to
20 strengthen the ability of law enforcement agencies to detect,

1 investigate, and prosecute cases of domestic violence, sexual
2 assault, and other crimes while offering protection to such victims.

3 NEW SECTION. **Sec. 3.** (1) "Administrative warrant" means an
4 immigration warrant of arrest, order to detain or release aliens,
5 notice of custody determination, notice to appear, removal order,
6 warrant of removal, or any other document, issued by an immigration
7 agent that can form the basis for an individual's arrest or detention
8 for a civil immigration enforcement purpose.

9 (2) "Certification" means any law enforcement certification or
10 statement required by federal immigration law including, but not
11 limited to, the information required by 8 U.S.C. Sec. 1184(p) and 8
12 U.S.C. Sec. 1184(o), including current USCIS form I-918, supplement B
13 and USCIS form I-914, supplement B, respectively, and any successor
14 forms.

15 (3) "Certifying agency" means a state or local law enforcement
16 agency, prosecutor, judge, or other authority, that has
17 responsibility for the investigation or prosecution of criminal
18 activity. A certifying agency includes agencies that have criminal
19 investigative jurisdiction in their respective areas of expertise
20 including, but not limited to, the Washington department of labor and
21 industries and the Washington department of social and health
22 services.

23 (4) "Citizenship or immigration status" means all matters
24 regarding questions of citizenship of the United States or any other
25 country, the authority to reside in or otherwise be present in the
26 United States, the time or manner of a person's entry into the United
27 States, or any other civil immigration matter enforced by the
28 department of homeland security or other federal agency charged with
29 the enforcement of civil immigration laws.

30 (5) "Criminal activity" means any activity that is a crime under
31 the Revised Code of Washington or any similar activity under any city
32 or municipal code regardless of whether the activity resulted in a
33 prosecution.

34 (6) "Eligible for release from custody" means that the individual
35 may be released from custody because one of the following conditions
36 has occurred:

37 (a) All criminal charges against the individual have been
38 dismissed;

1 (b) The individual has been acquitted of all criminal charges
2 filed against him or her;

3 (c) The individual has served all the time required for his or
4 her sentence;

5 (d) The individual has posted a bond; or

6 (e) The individual is otherwise eligible for release under state
7 or local law or local policy.

8 (7) "Immigration agent" means an agent of United States
9 immigration and customs enforcement, United States customs and border
10 protection, any individuals authorized to conduct enforcement of
11 civil immigration laws under 8 U.S.C. Sec. 1357(g) or any other
12 federal law, other federal agents charged with enforcement of civil
13 immigration laws, and any successors.

14 (8) "Immigration detainer" means a document issued by an
15 immigration agent to a federal, state, or local law enforcement
16 agency that requests that the law enforcement agency provide notice
17 of release or maintain custody of the individual based on an alleged
18 violation of a civil immigration law, including detainers issued
19 pursuant to section 287.7 or section 236.1 of Title 8 of the code of
20 federal regulations, and on DHS form I-247 "Immigration Detainer -
21 Notice of Action."

22 (9) "Law enforcement agency" means any agency in Washington that
23 qualifies as a criminal justice agency under RCW 10.97.030(5) and is
24 charged with enforcement of state, county, municipal, or federal
25 laws, or with managing custody of detained persons in the state, and
26 includes municipal police departments, sheriff's departments, campus
27 police departments, the Washington state patrol, and the juvenile
28 justice rehabilitative administration. "Law enforcement agency" does
29 not include the Washington state department of corrections.

30 (10) "Law enforcement official" means any officer or other agent
31 of a state or local law enforcement agency authorized to enforce
32 criminal statutes, regulations, or local ordinances or to operate
33 jails or juvenile detention facilities or to maintain custody of
34 individuals in jails or juvenile detention facilities.

35 (11) "Victim of criminal activity" means any individual who has
36 reported criminal activity to a law enforcement agency or certifying
37 agency, or has otherwise participated in the detection,
38 investigation, or prosecution of criminal activity, or has suffered
39 direct or proximate harm as a result of the commission of any
40 criminal activity and may include, but not be limited to, an indirect

1 victim, regardless of the direct victim's immigration or citizenship
2 status, including the spouse, children under twenty-one years of age
3 and, if the direct victim is under twenty-one years of age, parents,
4 and unmarried siblings under eighteen years of age where the direct
5 victim is deceased, incompetent, or incapacitated. Bystander victims
6 must also be considered. More than one victim may be identified and
7 provided with certification depending upon the circumstances. For
8 purposes of this subsection, the term "incapacitated" means unable to
9 interact with law enforcement agency or certifying agency personnel
10 as a result of a cognitive impairment or other physical limitation,
11 or because of physical restraint or disappearance or age, such as
12 minors.

13 NEW SECTION. **Sec. 4.** (1) A law enforcement agency may not
14 detain or continue to detain any individual on the basis of any
15 immigration detainer or administrative warrant, or otherwise comply
16 with an immigration detainer or administrative warrant, after that
17 individual becomes eligible for release from custody.

18 (2) An individual subject to an immigration detainer or
19 administrative warrant may not be denied bail solely on the basis of
20 that immigration detainer or administrative warrant. This subsection
21 may not be construed to undermine the authority of a court to make a
22 bail or bond determination according to its usual procedures.

23 (3)(a) Except as required by chapter 42.56 or 70.48 RCW or as
24 provided in this subsection, a law enforcement official or other law
25 enforcement agency personnel may not:

26 (i) Give any immigration agent access to any individual or allow
27 any immigration agent to use law enforcement agency facilities for
28 investigative interviews or other purposes; or

29 (ii) Expend resources responding to immigration agent inquiries
30 or communicating with immigration agents regarding any individual's
31 incarceration status, release date, or contact information.

32 (b) This subsection (3) does not restrict the authority of any
33 law enforcement official or law enforcement agency to conduct any of
34 the activities listed in this subsection (3) if an immigration agent
35 presents a valid warrant issued by a court of competent jurisdiction
36 or if the law enforcement official has a legitimate law enforcement
37 purpose that is not related to the enforcement of immigration laws.

38 (4) Except as required by chapter 42.56 or 70.48 RCW or as
39 expressly provided in this chapter, a law enforcement agency may not

1 expend state or local law enforcement resources to comply with an
2 immigration detainer or administrative warrant or facilitate any
3 other noncriminal immigration enforcement.

4 (5) This section does not restrict any expenditure or activity
5 necessary to the performance by the state, any local unit of
6 government, any law enforcement or other agency, officer, employee,
7 or agent thereof of any obligations under any contract between the
8 state, the local unit of government, or the agency and federal
9 officials regarding the use of a facility to detain individuals in
10 federal immigration removal proceedings.

11 (6) The state, local units of government, or agencies may not
12 contract with a private for profit vendor or contractor for the
13 following activities relating to the operation or management of a
14 facility to detain individuals in federal removal proceedings:

15 (a) The provision of services, other than ancillary services such
16 as water, sewer, garbage, and other utilities; or

17 (b) The approval of any permits, zoning changes, or other
18 measures required for, or to otherwise facilitate, the construction,
19 operation, or management of such a facility.

20 NEW SECTION. **Sec. 5.** A law enforcement official may not stop,
21 arrest, search, detain, or continue to detain a person based solely
22 on an administrative warrant entered into the federal bureau of
23 investigation's national crime information center database, or any
24 successor or similar database maintained by the United States.

25 NEW SECTION. **Sec. 6.** A law enforcement agency may not enter
26 into an agreement under 8 U.S.C. Sec. 1357(g) or any other federal
27 law that permits state or local governmental entities to enforce
28 federal civil immigration laws.

29 NEW SECTION. **Sec. 7.** (1) A certifying agency shall make a
30 determination regarding a certification requested by any victim of
31 criminal activity or representative thereof including, but not
32 limited to, the victim's attorney, accredited representative, or
33 domestic violence, sexual assault, or victim service provider, within
34 ninety days of receiving any such request. In any case in which the
35 victim seeking certification is in federal immigration removal
36 proceedings, the certifying agency shall execute the certification no
37 later than fourteen days after the request is received by the agency.

1 In any case in which the victim or the victim's children would lose
2 any benefits under 8 U.S.C. Sec. 1184(p) and 8 U.S.C. Sec. 1184(o) by
3 virtue of having reached the age of twenty-one years within ninety
4 days after the certifying agency receives the certification request,
5 the certifying agency shall execute the certification no later than
6 fourteen days before the date on which the victim or child would
7 reach the age of twenty-one years or ninety days from the date of the
8 request, whichever is earlier. Requests for expedited certification
9 must be affirmatively raised by the victim. If a certifying agency
10 denies the certification request, it must do so in writing and must
11 articulate the reasons for the denial.

12 (2) The head of each certifying agency shall designate an agent,
13 who performs a supervisory role within the agency, to perform the
14 following responsibilities:

15 (a) Respond to requests for certifications;

16 (b) Provide outreach to victims of criminal activity to inform
17 them of the agency's certification process; and

18 (c) Keep written records of all certification requests and
19 responses, which must be reported to the Washington family unity act
20 compliance board on an annual basis.

21 (3) All certifying agencies shall develop a language access
22 protocol for non-English speaking victims of criminal activity.

23 (4) A certifying agency shall reissue any certification within
24 ninety days of receiving a request from the victim of criminal
25 activity or representative thereof including, but not limited to, the
26 victim's attorney, accredited representative, or domestic violence,
27 sexual assault, or victim service provider.

28 (5) A certifying agency may not disclose information regarding
29 the citizenship or immigration status of any victim of criminal
30 activity who is requesting a certification unless required to do so
31 by chapter 42.56 RCW, applicable federal law, or court order, or
32 unless the certifying agency has written authorization from the
33 victim or, if the victim is a minor or is otherwise not legally
34 competent, by the victim's parent or guardian.

35 (6) The Washington law enforcement training standards board shall
36 adopt rules for minimum standards for a course of study on cultural
37 sensitivity training, including training on U and T nonimmigrant
38 visas among other remedies for immigrant survivors of criminal
39 activity, as well as education concerning cultural diversity
40 awareness.

1 (7) All certifying agencies not subject to the training
2 requirements described in subsection (6) of this section shall adopt
3 a training program on U and T nonimmigrant visas and other remedies
4 for immigrant survivors of criminal activity, as well as education
5 concerning cultural diversity awareness.

6 (8) All certifying agencies must do the following within eighteen
7 months of the effective date of this section:

8 (a) Complete the training described in subsections (6) and (7) of
9 this section; and

10 (b) Report on the completion of the training described in
11 subsections (6) and (7) of section to the Washington family unity act
12 compliance board.

13 NEW SECTION. **Sec. 8.** The governor shall appoint a Washington
14 family unity act compliance board within ninety days of the effective
15 date of this section. The board must consist of five members, serving
16 terms of three years, representing immigrant communities, law
17 enforcement, providers of services to survivors of domestic violence,
18 sexual assault, and other crimes, and other entities concerned with
19 public safety and effective cooperation between immigrants and local
20 police. The board is responsible for all of the following:

21 (1) Monitoring compliance under this chapter;

22 (2) Training of law enforcement officers and others about this
23 chapter;

24 (3) Dissemination of information about this chapter to affected
25 communities and the general public;

26 (4) Establishing mechanisms by which the public can report
27 concerns and recommendations regarding implementation of this
28 chapter;

29 (5) Identifying implementation issues and other trends, and
30 providing recommendations to the governor and the attorney general
31 for addressing these issues;

32 (6) Conducting research regarding sharing of immigration and
33 citizenship status information and personally identifiable
34 information, between law enforcement agencies and immigration and
35 customs enforcement including, but not limited to, research
36 regarding: (a) Requests for or investigations of immigration and
37 citizenship status information by law enforcement agencies and
38 officials; (b) sharing of information and data posted in the
39 Washington law enforcement agencies database system or any other

1 state administered database to which immigration agents have access;
2 (c) immigration agents' use of the Washington state patrol-
3 administered crime-related database or any other state administered
4 database; and (d) the impact of such requests, investigations, and
5 sharing and use of information on relations between law enforcement
6 agencies and immigrant communities;

7 (7) Conducting additional research as may be necessary, including
8 but not limited to requesting and disseminating data from law
9 enforcement agencies relevant to this chapter and its impact on law
10 enforcement agencies, police community relations, affected
11 communities, and the state overall; and

12 (8) Other responsibilities relating to this chapter identified by
13 the board.

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

23 NEW SECTION. **Sec. 10.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 11.** RCW 10.70.140 (Aliens committed—Notice to
28 immigration authority) and 1992 c 7 s 29 & 1925 ex.s. c 169 s 1 are
29 each repealed.

30 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act
31 constitute a new chapter in Title 10 RCW.

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