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**SECOND SUBSTITUTE SENATE BILL 5689**

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**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)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The attorney general, in consultation with the appropriate stakeholders, must publish model policies for limiting immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, health facilities operated by the state or a political subdivision of the state, courthouses, and shelters, to ensure they remain safe and accessible to all Washington residents, regardless of immigration or citizenship status within three months after the effective date of this section. All public schools, health facilities operated by the state or a political subdivision of the state, and courthouses must implement the model policy, or an equivalent policy. All other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, are encouraged to adopt the model policy.

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

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

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

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

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

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

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

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

(1) The legislature finds that it is not the primary purpose of state and local law enforcement agencies, school resource officers, or security departments 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 immigration and customs enforcement has primary jurisdiction for enforcement of the provisions of Title 8 U.S.C. dealing with illegal entry.

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

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

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

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

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

(5) Notwithstanding any other provision of law, state or local law enforcement agencies, school resource officers, or security departments may not transfer or detain an individual to federal immigration authorities absent a judicial warrant establishing probable cause to believe that the person has committed a criminal offense. This subsection does not limit the scope of any other subsection of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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