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**Civil Rights & Judiciary Committee**

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**E2SSB 5497**

**Brief Description:** Establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace.

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

**Brief Summary of Engrossed Second Substitute Bill**

- Establishes the Keep Washington Working Act.
- Creates the Keep Washington Working statewide workgroup.
- Requires the Attorney General to publish model policies for limiting immigration enforcement to the fullest extent possible consistent with state and federal laws for certain entities.
- Prohibits certain actions by law enforcement agencies and the Department of Corrections.

**Hearing Date:** 3/22/19

**Staff:** Ingrid Lewis (786-7289).

**Background:**

Interaction Between Immigration and Customs Enforcement and State and Local Agencies.

United States (U.S.) Immigration and Customs Enforcement (ICE) enforces federal laws governing border control, customs, trade, and immigration. Immigration and Customs Enforcement was created in 2003 through a merger of the investigative and interior enforcement elements of the former U.S. Customs Service and the Immigration and Naturalization Service, and is under the jurisdiction of the U.S. Department of Homeland Security.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The federal 287(g) program allows ICE to enter into formal agreements with a state or local law enforcement entity to delegate immigration enforcement authority to those entities within their jurisdictions. State and local entities participating in the program are authorized to interview individuals to ascertain their immigration status; check ICE databases for information on individuals; issue immigration detainers to hold individuals until ICE takes custody; and enter data into ICE's database and case management system.

### **Summary of Bill:**

#### Statewide Workgroup.

The Keep Washington Working statewide workgroup is created within the Department of Commerce (Department). The workgroup must:

- consist of 11 statewide representatives from labor, immigrant rights advocacy groups, and business groups and government agencies;
- develop strategies, conduct research, and make recommendations on issues relating to Washington's economy and immigrants' role in the workplace; and
- provide status reports to the Department.

The Department is required to provide an annual report on the workgroup to the Legislature.

#### Attorney General Model Policies and Guidance.

The Attorney General (AG), in consultation with stakeholders, must publish model policies for limiting immigration enforcement at public schools, government-operated health facilities, courthouses, and shelters to ensure access to services for Washington residents, regardless of immigration or citizenship status. All public schools, government-operated health facilities, and courthouses must adopt the necessary changes consistent with the model policies or notify the AG that it will not adopt the changes and its reasons. Other organizations providing services related to physical or mental health and wellness, education, or access to justice are encouraged to adopt the model policies. Adoption and implementation of the model policies must be consistent with federal and state law.

The AG, in consultation with stakeholders, must publish guidance related to databases operated by law enforcement agencies. Databases are to be governed in a manner that limits the availability of information for the purpose of immigration enforcement. The law enforcement agencies must adopt the necessary changes to database governance policies consistent with that guidance or notify the AG that it will not adopt the changes and its reasons. Adoption and implementation of the model policies must be consistent with federal and state law.

The AG, in consultation with stakeholders, must publish model policies, guidance, and training recommendations aimed at ensuring that state and local law enforcement duties are carried out in a manner that limits engagement with federal immigration authorities for the purpose of immigration enforcement, within the bounds of federal and state laws.

#### Immigration Enforcement.

Except as provided by law, in noncriminal matters, law enforcement agencies may not disclose nonpublic personal information about an individual to immigration authorities or give immigration authorities access to interview individuals about a noncriminal matter while the

person is in custody. These provisions are not applicable to individuals in the physical custody of the Department of Corrections (DOC).

Except as provided by law, individuals in state or local custody, or in the physical custody of the DOC must:

- not be denied services and other benefits on the basis of the presence of an immigration detainer, hold, notification request, or civil immigration warrant, unless it is necessary for placement or classification purposes;
- not be taken or held in custody solely for the purpose of determining immigration status or based solely on an immigration warrant or hold request; and
- be informed of their right to decline an interview by immigration authorities.

Law enforcement agencies and school resource officers must not accept language services from federal immigration authorities.

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

- inquire into or collect information about an individual's immigration or citizenship status or place of birth; or
- provide information pursuant to notification requests from federal immigration authorities for the purpose of civil immigration enforcement, except as required by law.

Law enforcement agencies may not:

- inquire into or collect information about an individual's immigration or citizenship status or place of birth, unless there is a connection between the information and a criminal investigation; or
- provide information pursuant to notification requests from federal immigration authorities for the purpose of civil immigration enforcement, except as required by law.

The DOC is exempt from these provisions.

Certain state agencies must review their confidentiality policies and make any necessary changes to ensure that information collected from individuals is limited to information necessary to perform agency duties and is not used or disclosed for other purposes. 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. Final policies must be published.

Except for de-identified or aggregate data, no state agency or department, including law enforcement, may use funds or resources to investigate or assist in the enforcement of any registration or surveillance programs or any other laws that target Washington residents solely on the basis of a protected class, or immigration or citizenship status.

Restrictions placed on the collection, use, or disclosure of information by a state agency or department are not applicable if the collection, use, or disclosure of the information is required to comply with state and federal law; in response to a court order; is necessary to perform nonimmigration enforcement-related agency or department duties or functions; or is required to comply with any requirement necessary to maintain funding.

The state or local agency or agent may send and receive information from immigration authorities and exchange information about a person's citizenship or immigration status with any other government agency in accordance with federal law.

**Appropriation:** None.

**Fiscal Note:** Available for Second Substitute Senate Bill 5497.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.