

# FINAL BILL REPORT

## E2SSB 5497

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Synopsis as Enacted

**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).

**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**  
**House Committee on Civil Rights & Judiciary**  
**House Committee on Appropriations**

**Background:** Federal Immigration Agencies. Two main components of the federal Department of Homeland Security (DHS) implementing federal immigration policies are the U.S. Citizenship and Immigration Services (USCIS) and the U.S. Immigration and Customs Enforcement agency (ICE). In addition, DHS and the Social Security Administration (SSA) jointly operate the e-verify internet-based system allowing participating employers to verify the eligibility of newly hired employees.

USCIS accepts and processes immigration forms and petitions and otherwise governs the administration of the U.S. immigration process. USCIS adjudicates requests for immigration benefits.

In 2003 the investigative and interior enforcement elements of the former U.S. Customs Service merged with the Immigration and Naturalization Service to form ICE. ICE is responsible for border security and processing those who wish to enter the U.S. ICE enforces U.S. immigration laws. ICE arrests individuals based on their unlawful immigration status.

The Federal Immigration and Naturalization Act 287(g) Program. The 287(g) program enables state and local law enforcement agencies to receive delegated authority from ICE through a memorandum of agreement (MOA) to enforce immigration laws within their jurisdictions. Local and state law enforcement officers become deputized ICE officers and have authority to interview individuals to determine their immigration status, check DHS databases for information on individuals, enter data into ICE's database and case management systems, issue immigration detainers to hold individuals until ICE takes custody, and transfer individuals into ICE custody. Current 287(g) MOAs are due to expire

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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.*

on June 30, 2019. Once an MOA expires, DHS is not obligated to renew it. Either party may terminate an MOA at any time.

Federal Immigration Enforcement Laws. Under federal laws and regulations, ICE officers may interrogate, and arrest aliens or persons suspected of being an alien without a warrant if they are likely to escape before a warrant may be obtained. ICE officers may board and search vessels in U.S. territorial waters; search vehicles, aircraft, or railway cars within a reasonable distance from an external U.S. boundary; and patrol the border to prevent illegal entry into the U.S. ICE officers may arrest individuals for felony charges related to any law regulating the admission, exclusion, expulsion, or removal of aliens. ICE agents may also conduct a search without warrant of the person and their personal effects of any person seeking admission to the U.S. if they have reasonable cause to suspect grounds exist for denying the person admission into the U.S. and escape may occur before a warrant may be obtained.

The U.S. attorney general may enter into a written agreement with a state or its political subdivisions to delegate authority for state and local officers to perform the functions of an immigration enforcement officer. State and local officers may investigate, apprehend, or detain aliens or transport them to detention centers across state lines if consistent with state and local law. An agreement is not required to communicate with the U.S. attorney general regarding an individual's immigration status or cooperate with the U.S. attorney general to identify, apprehend, detain, or remove aliens not lawfully in the U.S.

A separate federal law prohibits any state or local law from restricting any government entity or official from sending or receiving information to ICE regarding an individual's lawful or unlawful citizenship or immigration status. No person or agency may prohibit or restrict a federal, state, or local government entity from sending or requesting information from ICE about an individual's immigration status, or maintaining information exchanged with ICE, or exchanging information about an individual's immigration status with any other federal, state, or local entity. ICE must respond to inquiries from a federal, state, or local agency seeking information about citizenship or immigration status of an individual within the agency's jurisdiction.

**Summary:** The Keep Washington Working statewide work group is established within the Department of Commerce. The work group consists of 11 members serving staggered three-year terms. The work group is comprised of persons from geographically diverse immigrant advocacy groups, professional associations representing business, labor organizations, agriculture, immigrant legal interests, academia, and law enforcement. The work group must develop strategies and methods to strengthen immigrants' career pathways, support organizations to provide workforce stability for the agriculture industry, and recommend approaches to attract immigrant-owned businesses providing new business and trade opportunities.

The state attorney general, working with interested parties, must develop model policies limiting immigration enforcement in public schools, health facilities operated by the state or its political subdivisions, courthouses, and shelters to ensure safe access for Washington residents regardless of immigration or citizenship status. State agencies must review and update their policies and information systems to limit the personal information an agency

requests and retains to only the information necessary to perform agency duties. All public employees must serve all Washington residents without regard to citizenship or immigration status, or condition receipt of services based on citizenship or immigration status.

Except for aggregate or de-identified data, state agencies, are prohibited from using department funds, facilities, equipment, or personnel to participate in any federal registration or enforcement programs targeting Washington residents solely based on their race, religion, ethnicity, immigration, or citizenship status. State agencies must oversee their databases, including those maintained for the state by vendors, to limit use of database information for immigration enforcement to the fullest extent permitted by state and federal law.

State and local law enforcement agencies, school resource officers and security departments may not provide information to federal immigration authorities for civil immigration enforcement or provide nonpublic personal information about an individual to federal immigration authorities in noncriminal matters unless required by law. Any person in state or local custody, including those in community custody or Department of Corrections (DOC) physical custody, must be informed of their right to refuse an interview by federal immigration enforcement authorities. The state must not accept language services, even at no cost, from federal immigration authorities. A person in DOC custody must be informed of their right to refuse early release for the purpose of deportation. DOC may not take a person into custody, or hold someone in custody, solely for determining their immigration status, or based solely on a civil immigration warrant or immigration hold request.

In accordance with federal law, state or local agencies or officers may send and receive information from federal immigration authorities and exchange information with other federal, state, or local government agencies about immigration or citizen status of an individual.

A severability clause renders any conflicting part of the act inoperative to the extent it conflicts with federal requirements that are a condition to allocation of federal funds to the state.

**Votes on Final Passage:**

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| Senate | 30 | 16 |                    |
| House  | 57 | 38 | (House amended)    |
| Senate | 27 | 21 | (Senate concurred) |

**Effective:** May 21, 2019