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**SECOND SUBSTITUTE SENATE BILL 5497**

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**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 a person's recorded  
8 citizenship or immigration status, as such status is defined in the  
9 immigration and 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 any person who contracts  
4 with or whose law enforcement agency contracts with any charter  
5 school, educational service district, school, school district, or  
6 institution of higher education as defined in RCW 28B.10.016 to  
7 provide law enforcement services, or any law enforcement officer  
8 whose primary responsibility is to provide law enforcement to  
9 schools.

10 (15) "State agency" has the same meaning as provided in RCW  
11 42.56.010.

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

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

16 (b) Is authorized to operate prisons or to maintain custody of  
17 individuals in prisons; or

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

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

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

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

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

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

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

37 (2) The work group must consist of eleven representatives, each  
38 serving a term of three years, representing members from  
39 geographically diverse immigrant advocacy groups, professional

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

12 (3) In addition to the duties and powers described in RCW  
13 43.330.040, it is the director's duty to provide support to the work  
14 group.

15 (4) The definitions in section 2 of this act apply to this  
16 section.

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

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

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

29 (a) Adopt necessary changes to policies consistent with the model  
30 policy; or

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

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

38 (4) Implementation of any policy under this section must be in  
39 accordance with state and federal law; policies, grants, waivers, or

1 other requirements necessary to maintain funding; or other agreements  
2 related to the operation and functions of the organization, including  
3 databases within the organization.

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

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

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

18 (2) Except as provided in subsection (3) of this section, the  
19 state agencies listed in subsections (5) and (6) of this section  
20 shall review their policies and identify any changes necessary to  
21 ensure that:

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

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

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

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

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

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

36 (b) In response to a lawfully issued court order;

37 (c) Necessary to perform agency duties, functions, or other  
38 business, as permitted by statute or rule, conducted by the agency  
39 that is not related to immigration enforcement;

1 (d) Required to comply with policies, grants, waivers, or other  
2 requirements necessary to maintain funding; or

3 (e) In the form of deidentified or aggregated data, including  
4 census data.

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

8 (5) The following state agencies shall begin implementation of  
9 this section within six months after the effective date of this  
10 section and demonstrate full compliance by December 1, 2021:

11 (a) Department of licensing;

12 (b) Department of labor and industries;

13 (c) Employment security department;

14 (d) Department of revenue;

15 (e) Department of health;

16 (f) Health care authority;

17 (g) Department of social and health services;

18 (h) Department of children, youth, and families;

19 (i) Office of the superintendent of public instruction;

20 (j) State patrol.

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

24 (a) Department of agriculture;

25 (b) Department of financial institutions;

26 (c) Department of fish and wildlife;

27 (d) Department of natural resources;

28 (e) Department of retirement systems;

29 (f) Department of services for the blind;

30 (g) Department of transportation.

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

33 (1) The definitions contained in section 2 of this act apply to  
34 this section.

35 (2) The legislature finds that it is not the primary purpose of  
36 state and local law enforcement agencies or school resource officers  
37 to enforce civil federal immigration law. The legislature further  
38 finds that the immigration status of an individual or an individual's  
39 presence in, entry, or reentry to, or employment in the United States

1 alone, is not a matter for police action, and that United States  
2 immigration and customs enforcement has primary jurisdiction for  
3 enforcement of the provisions of Title 8 U.S.C. dealing with illegal  
4 entry.

5 (3) For any databases operated by state and local law enforcement  
6 agencies, including databases maintained for the agency by private  
7 vendors, the attorney general shall, by January 1, 2020, in  
8 consultation with appropriate stakeholders, publish guidance, audit  
9 criteria, and training recommendations aimed at ensuring that those  
10 databases are governed in a manner that limits the availability of  
11 information therein to the fullest extent practicable and consistent  
12 with federal and state law, to anyone or any entity for the purpose  
13 of immigration enforcement. All state and local law enforcement  
14 agencies must either:

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

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

22 (4) School resource officers, when acting in their official  
23 capacity as a school resource officer, may not:

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

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

29 (5) State and local law enforcement agencies may not:

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

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

37 (6) State and local law enforcement agencies may not provide  
38 nonpublicly available personal information about an individual,  
39 including individuals subject to community custody pursuant to RCW



1 9.94A.701 and 9.94A.702, to federal immigration authorities in a  
2 noncriminal matter, except as required by state or federal law.

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

7 (b) Permission may be granted to a federal immigration authority  
8 to conduct an interview regarding federal immigration violations with  
9 a person who is in the custody of a state or local law enforcement  
10 agency if the person consents in writing to be interviewed. In order  
11 to obtain consent, agency staff shall provide the person with an oral  
12 explanation and a written consent form that explains the purpose of  
13 the interview, that the interview is voluntary, and that the person  
14 may decline to be interviewed or may choose to be interviewed only  
15 with the person's attorney present. The form must state explicitly  
16 that the person will not be punished or suffer retaliation for  
17 declining to be interviewed. The form must be available at least in  
18 English and Spanish and explained orally to a person who is unable to  
19 read the form, using, when necessary, an interpreter from the  
20 district communications center "language line" or other district  
21 resources.

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

24 (9) An individual must not be taken into custody, or held in  
25 custody, solely for the purposes of determining immigration status or  
26 based solely on a civil immigration warrant, or an immigration hold  
27 request.

28 (10) (a) To ensure compliance with all treaty obligations,  
29 including consular notification, and state and federal laws, on the  
30 commitment or detainment of any individual, state and local law  
31 enforcement agencies must explain in writing:

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

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

37 (b) Nothing in this subsection allows for any violation of  
38 subsection (5) of this section.

39 (11) A state and local government or law enforcement agency may  
40 not deny services, benefits, privileges, or opportunities to

1 individuals in custody, or under community custody pursuant to RCW  
2 9.94A.701 and 9.94A.702, or in probation status, on the basis of the  
3 presence of an immigration detainer, hold, notification request, or  
4 civil immigration warrant, except as required by law or as necessary  
5 for classification or placement purposes for individuals in the  
6 physical custody of the department of corrections.

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

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

18 (b) Any immigration detention agreement in effect prior to  
19 January 1, 2019, and under which a payment was made between July 1,  
20 2017, and December 31, 2018, may remain in effect until the date of  
21 completion or December 31, 2021, whichever is earlier.

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

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

33 (16) Subsections (3) through (7) of this section do not apply to  
34 individuals who are in the physical custody of the department of  
35 corrections.

36 (17) Nothing in this section prohibits the collection, use, or  
37 disclosure of information that is:

- 38 (a) Required to comply with state or federal law; or
- 39 (b) In response to a lawfully issued court order.

1        NEW SECTION.     **Sec. 7.**    To ensure state and law enforcement  
2 agencies are able to foster the community trust necessary to maintain  
3 public safety, within six months of the effective date of this  
4 section, the attorney general must, in consultation with appropriate  
5 stakeholders, publish model policies, guidance, and training  
6 recommendations consistent with this act and state and local law,  
7 aimed at ensuring that state and local law enforcement duties are  
8 carried out in a manner that limits, to the fullest extent  
9 practicable and consistent with federal and state law, engagement  
10 with federal immigration authorities for the purpose of immigration  
11 enforcement. All state and local law enforcement agencies must  
12 either:

- 13        (1) Adopt policies consistent with that guidance; or  
14        (2) Notify the attorney general that the agency is not adopting  
15 the guidance and model policies, state the reasons that the agency is  
16 not adopting the model policies and guidance, and provide the  
17 attorney general with a copy of the agency's policies to ensure  
18 compliance with this act.

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

- 21        (1) Sending to, or receiving from, federal immigration  
22 authorities the citizenship or immigration status of a person, or  
23 maintaining such information, or exchanging the citizenship or  
24 immigration status of an individual with any other federal, state, or  
25 local government agency, in accordance with 8 U.S.C. Sec. 1373; or  
26        (2) Complying with any other state or federal law.

27        NEW SECTION.     **Sec. 9.**    If any part of this act is found to be in  
28 conflict with federal requirements that are a prescribed condition to  
29 the allocation of federal funds to the state, the conflicting part of  
30 this act is inoperative solely to the extent of the conflict and with  
31 respect to the agencies directly affected, and this finding does not  
32 affect the operation of the remainder of this act in its application  
33 to the agencies concerned. Rules adopted under this act must meet  
34 federal requirements that are a necessary condition to the receipt of  
35 federal funds by the state.

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

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

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

5 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of  
7 the state government and its existing public institutions, and takes  
8 effect immediately.

--- END ---