
HOUSE BILL 1874

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Moscoso, Jinkins, Appleton, Roberts, Reykdal, Hunt, Ryu, Pollet, and Farrell

Read first time 02/13/13. Referred to Committee on Public Safety.

1 AN ACT Relating to federal immigration policy enforcement; adding
2 new sections to chapter 10.31 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds and declares all of
5 the following:

6 (1) The United States immigration and customs enforcement's secure
7 communities program burdens state resources by requiring local law
8 enforcement officers to assist with federal immigration enforcement.
9 The detainers issued as a result of the secure communities program and
10 related immigration and customs enforcement programs request that local
11 law enforcement agencies detain individuals for forty-eight hours.
12 Local tax dollars are spent on these detainers and the local law
13 enforcement agencies do not receive full reimbursement from the federal
14 government for these costs.

15 (2) The implementation of the secure communities program has not
16 matched up with its original goal of making our communities safer by
17 removing and deporting violent criminals. Because the program conducts
18 mandatory immigration checks of everyone booked into local jails, it
19 has led to the deportations of people with no criminal records. The

1 program actually harms communities by making immigrants and communities
2 of color less likely to report crimes. When every arrest is a
3 potential immigration arrest, people in immigrant communities are
4 afraid to report crimes or cooperate with investigations. The fewer
5 crimes that are reported, the longer criminals remain on the streets of
6 our communities.

7 (3) According to immigration and customs enforcement, the secure
8 communities program is supposed to prioritize the deportation of
9 illegal immigrants who have been accused or convicted of serious
10 crimes. However, immigration and customs enforcement statistics from
11 2011 show only twenty-two percent of the six thousand deported through
12 the program were high level, felony offenders. Twenty-eight percent
13 had no criminal record at all.

14 (4) Immigration detainers operate at the pretrial level. These
15 detainers require no determinations of probable cause or warrants.
16 Complying with these detainers could cause law enforcement officers to
17 violate individuals' constitutional rights.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.31 RCW
19 to read as follows:

20 (1) A law enforcement officer is prohibited from detaining an
21 individual on the basis of an immigration detainer after that
22 individual becomes eligible for release from criminal custody, unless,
23 at the time the individual becomes eligible for release, a criminal
24 background check reveals the individual was previously convicted of a
25 most serious offense or violent offense.

26 (2) For the purposes of this section:

27 (a) "Criminal custody" means in the custody of the state department
28 of corrections, the state department of social and health services, a
29 local division of youth services, or a local jail or detention facility
30 in connection to a criminal offense.

31 (b) "Eligible for release from criminal custody" means that the
32 individual may be released from criminal custody because one of the
33 following conditions has occurred:

34 (i) All criminal charges against the individual have been dropped
35 or dismissed;

36 (ii) The individual has been acquitted of all criminal charges
37 filed against him or her;

1 (iii) The individual has served all the time required for his or
2 her sentence;

3 (iv) The individual has posted bond; or

4 (v) The individual is otherwise eligible for release under state or
5 local law, or local policy.

6 (c) "Immigration detainer" means a detainer issued by an authorized
7 immigration officer, pursuant to section 287.7 of Title 8 of the code
8 of federal regulations that requests that the law enforcement official
9 maintain custody of the individual for a period not to exceed forty-
10 eight hours, and to advise the authorized immigration office prior to
11 the release of that individual.

12 (d) "Law enforcement officer" means any local agency or officer of
13 a local agency authorized to enforce criminal statutes, regulations, or
14 local ordinances or to operate jails or to maintain custody of
15 individuals in jails, and any person or local agency or state
16 governmental entity authorized to operate juvenile detention facilities
17 or to maintain custody of individuals in juvenile detention facilities.

18 (e) "Most serious offense" has the same meaning as in RCW
19 9.94A.030.

20 (f) "Violent offense" has the same meaning as in RCW 9.94A.030.

21 (3) The state, its subdivisions, officers, and employees and local
22 governments and their subdivisions, officers, and employees are immune
23 from civil liability for damages arising from failure to comply with an
24 immigration detainer except upon proof of willful or wanton misconduct.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.31 RCW
26 to read as follows:

27 There being no legal authority for state or local law enforcement
28 officers to enforce federal civil immigration laws, no state or local
29 law enforcement officer shall make arrests or detain any individual
30 based on an administrative immigration warrant in the national crime
31 information center database of the federal bureau of investigation.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.31 RCW
33 to read as follows:

34 Unless an individual in the custody of a law enforcement officer or
35 agency is provided an opportunity to have counsel present, and signs a
36 written consent form that indicates knowledge of who the interviewer is

1 and the possible legal consequences of providing information to any
2 employee or agent of the United States immigration and customs
3 enforcement agency or the United States border patrol, no law
4 enforcement officer or agency shall make the individual available for
5 interview by any employee or agent of the United States immigrations
6 and customs enforcement agency or the United States border patrol, in
7 person or over the telephone or videoconference. Such notice shall be
8 provided in a language or manner that the individual in custody
9 understands. Any individual who is hospitalized or on suicide watch
10 shall not be made available for interviews with any employee or agent
11 of the United States immigration and customs enforcement agency or the
12 United States border patrol.

13 NEW SECTION. **Sec. 5.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

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