

**E2SSB 5497** - H COMM AMD

By Committee on Civil Rights & Judiciary

**NOT CONSIDERED 04/12/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.17  
25 RCW to read as follows:

26 The definitions in this section apply throughout this section and  
27 sections 3 through 9 of this act unless the context clearly requires  
28 otherwise.

29 (1) "Civil immigration warrant" means any warrant for a violation  
30 of federal civil immigration law issued by a federal immigration  
31 authority. A "civil immigration warrant" includes, but is not limited

1 to, administrative warrants issued on forms I-200 or I-203, or their  
2 successors, and civil immigration warrants entered in the national  
3 crime information center database.

4 (2) "Court order" means a directive issued by a judge or  
5 magistrate under the authority of Article III of the United States  
6 Constitution or Article IV of the Washington Constitution. A "court  
7 order" includes but is not limited to warrants and subpoenas.

8 (3) "Federal immigration authority" means any officer, employee,  
9 or person otherwise paid by or acting as an agent of the United  
10 States department of homeland security including but not limited to  
11 its subagencies, immigration and customs enforcement and customs and  
12 border protection, and any present or future divisions thereof,  
13 charged with immigration enforcement.

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

17 (5) "Hold request" or "immigration detainer request" means a  
18 request from a federal immigration authority, without a court order,  
19 that a state or local law enforcement agency maintain custody of an  
20 individual currently in its custody beyond the time he or she would  
21 otherwise be eligible for release in order to facilitate transfer to  
22 a federal immigration authority. A "hold request" or "immigration  
23 detainer request" includes, but is not limited to, department of  
24 homeland security form I-247A or prior or subsequent versions of form  
25 I-247.

26 (6) "Immigration detention agreement" means any contract,  
27 agreement, intergovernmental service agreement, or memorandum of  
28 understanding that permits a state or local law enforcement agency to  
29 house or detain individuals for federal civil immigration violations.

30 (7) "Immigration or citizenship status" means as such status has  
31 been established to such individual under the immigration and  
32 nationality act.

33 (8) "Language services" includes but is not limited to  
34 translation, interpretation, training, or classes. Translation means  
35 written communication from one language to another while preserving  
36 the intent and essential meaning of the original text. Interpretation  
37 means transfer of an oral communication from one language to another.

38 (9) "Local government" means any governmental entity other than  
39 the state, federal agencies, or an operating system established under

1 chapter 43.52 RCW. It includes, but is not limited to, cities,  
2 counties, school districts, and special purpose districts.

3 (10) "Local law enforcement agency" means any agency of a city,  
4 county, special district, or other political subdivision of the state  
5 that is a general authority Washington law enforcement agency, as  
6 defined by RCW 10.93.020, or that is authorized to operate jails or  
7 to maintain custody of individuals in jails; or to operate juvenile  
8 detention facilities or to maintain custody of individuals in  
9 juvenile detention facilities; or to monitor compliance with  
10 probation or parole conditions.

11 (11) "Notification request" means a request from a federal  
12 immigration authority that a state or local law enforcement agency  
13 inform a federal immigration authority of the release date and time  
14 in advance of the release of an individual in its custody.  
15 "Notification request" includes, but is not limited to, the  
16 department of homeland security's form I-247A, form I-247N, or prior  
17 or subsequent versions of such forms.

18 (12) "Physical custody of the department of corrections" means  
19 only those individuals detained in a state correctional facility but  
20 does not include minors detained pursuant to chapter 13.40 RCW, or  
21 individuals in community custody as defined in RCW 9.94A.030.

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

26 (14) "School resource officer" means any person who contracts  
27 with or whose law enforcement agency contracts with any charter  
28 school, educational service district, school, school district, or  
29 institution of higher education as defined in RCW 28B.10.016 to  
30 provide law enforcement services, or any law enforcement officer  
31 whose primary responsibility is to provide law enforcement to  
32 schools.

33 (15) "State agency" has the same meaning as provided in RCW  
34 42.56.010.

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

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

39 (b) Is authorized to operate prisons or to maintain custody of  
40 individuals in prisons; or

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

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

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

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

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

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

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

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

34 (3) In addition to the duties and powers described in RCW  
35 43.330.040, it is the director's duty to provide support to the work  
36 group.

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

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

3        (1)    The attorney general, in consultation with appropriate  
4    stakeholders, must publish model policies within twelve months after  
5    the effective date of this section for limiting immigration  
6    enforcement to the fullest extent possible consistent with federal  
7    and state law at public schools, health facilities operated by the  
8    state or a political subdivision of the state, courthouses, and  
9    shelters, to ensure they remain safe and accessible to all Washington  
10   residents, regardless of immigration or citizenship status.

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

13        (a)    Adopt necessary changes to policies consistent with the model  
14   policy; or

15        (b)    Notify the attorney general that the agency is not adopting  
16   the changes to its policies consistent with the model policy, state  
17   the reasons that the agency is not adopting the changes, and provide  
18   the attorney general with a copy of the agency's policies.

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

22        (4)    Implementation of any policy under this section must be in  
23   accordance with state and federal law; policies, grants, waivers, or  
24   other requirements necessary to maintain funding; or other agreements  
25   related to the operation and functions of the organization, including  
26   databases within the organization.

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

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

31        (1)    Except as provided in subsection (3) of this section, no  
32   state agency, including law enforcement, may use agency funds,  
33   facilities, property, equipment, or personnel to investigate,  
34   enforce, cooperate with, or assist in the investigation or  
35   enforcement of any federal registration or surveillance programs or  
36   any other laws, rules, or policies that target Washington residents  
37   solely on the basis of race, religion, immigration, or citizenship  
38   status, or national or ethnic origin. This subsection does not apply

1 to any program with the primary purpose of providing persons with  
2 services or benefits, or to RCW 9.94A.685.

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

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

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

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

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

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

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

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

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

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

27 (e) In the form of deidentified or aggregated data, including  
28 census data.

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

32 (5) The following state agencies shall begin implementation of  
33 this section within twelve months after the effective date of this  
34 section and demonstrate full compliance by December 1, 2021:

35 (a) Department of licensing;

36 (b) Department of labor and industries;

37 (c) Employment security department;

38 (d) Department of revenue;

39 (e) Department of health;

40 (f) Health care authority;

- 1 (g) Department of social and health services;
- 2 (h) Department of children, youth, and families;
- 3 (i) Office of the superintendent of public instruction;
- 4 (j) State patrol.

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

- 8 (a) Department of agriculture;
- 9 (b) Department of financial institutions;
- 10 (c) Department of fish and wildlife;
- 11 (d) Department of natural resources;
- 12 (e) Department of retirement systems;
- 13 (f) Department of services for the blind;
- 14 (g) Department of transportation.

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

17 (1) The definitions contained in section 2 of this act apply to  
18 this section.

19 (2) The legislature finds that it is not the primary purpose of  
20 state and local law enforcement agencies or school resource officers  
21 to enforce civil federal immigration law. The legislature further  
22 finds that the immigration status of an individual or an individual's  
23 presence in, entry, or reentry to, or employment in the United States  
24 alone, is not a matter for police action, and that United States  
25 federal immigration authority has primary jurisdiction for  
26 enforcement of the provisions of Title 8 U.S.C. dealing with illegal  
27 entry.

28 (3) School resource officers, when acting in their official  
29 capacity as a school resource officer, may not:

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

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

35 (4) State and local law enforcement agencies may not:

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

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

4 (5) State and local law enforcement agencies may not provide  
5 nonpublicly available personal information about an individual,  
6 including individuals subject to community custody pursuant to RCW  
7 9.94A.701 and 9.94A.702, to federal immigration authorities in a  
8 noncriminal matter, except as required by state or federal law.

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

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

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

30 (8) An individual must not be taken into custody, or held in  
31 custody, solely for the purposes of determining immigration status or  
32 based solely on a civil immigration warrant, or an immigration hold  
33 request.

34 (9)(a) To ensure compliance with all treaty obligations,  
35 including consular notification, and state and federal laws, on the  
36 commitment or detainment of any individual, state and local law  
37 enforcement agencies must explain in writing:

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



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

4 (b) Nothing in this subsection allows for any violation of  
5 subsection (4) of this section.

6 (10) A state and local government or law enforcement agency may  
7 not deny services, benefits, privileges, or opportunities to  
8 individuals in custody, or under community custody pursuant to RCW  
9 9.94A.701 and 9.94A.702, or in probation status, on the basis of the  
10 presence of an immigration detainer, hold, notification request, or  
11 civil immigration warrant, except as required by law or as necessary  
12 for classification or placement purposes for individuals in the  
13 physical custody of the department of corrections.

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

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

25 (b) Any immigration detention agreement in effect prior to  
26 January 1, 2019, and under which a payment was made between July 1,  
27 2017, and December 31, 2018, may remain in effect until the date of  
28 completion or December 31, 2021, whichever is earlier.

29 (13) No state or local law enforcement agency or school resource  
30 officer may enter into or renew a contract for the provision of  
31 language services from federal immigration authorities, nor may any  
32 language services be accepted from such for free or otherwise.

33 (14) The department of corrections may not give federal  
34 immigration authorities access to interview individuals about federal  
35 immigration violations while they are in custody, except as required  
36 by state or federal law or by court order, unless such individuals  
37 consent to be interviewed in writing. Before agreeing to be  
38 interviewed, individuals must be advised that they will not be  
39 punished or suffer retaliation for declining to be interviewed.

1 (15) Subsections (3) through (6) of this section do not apply to  
2 individuals who are in the physical custody of the department of  
3 corrections.

4 (16) Nothing in this section prohibits the collection, use, or  
5 disclosure of information that is:

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

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

- 20 (1) Adopt policies consistent with that guidance; or  
21 (2) Notify the attorney general that the agency is not adopting  
22 the guidance and model policies, state the reasons that the agency is  
23 not adopting the model policies and guidance, and provide the  
24 attorney general with a copy of the agency's policies to ensure  
25 compliance with this act.

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

- 28 (1) Sending to, or receiving from, federal immigration  
29 authorities the citizenship or immigration status of a person, or  
30 maintaining such information, or exchanging the citizenship or  
31 immigration status of an individual with any other federal, state, or  
32 local government agency, in accordance with 8 U.S.C. Sec. 1373; or  
33 (2) Complying with any other state or federal law.

34 NEW SECTION. **Sec. 9.** If any part of this act is found to be in  
35 conflict with federal requirements that are a prescribed condition to  
36 the allocation of federal funds to the state, the conflicting part of  
37 this act is inoperative solely to the extent of the conflict and with

1 respect to the agencies directly affected, and this finding does not  
2 affect the operation of the remainder of this act in its application  
3 to the agencies concerned. Rules adopted under this act must meet  
4 federal requirements that are a necessary condition to the receipt of  
5 federal funds by the state.

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

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

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

12 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of  
14 the state government and its existing public institutions, and takes  
15 effect immediately."

16 Correct the title.

EFFECT: Extends the time frame in which the Attorney General and  
certain agencies are required to publish model policies from six  
months after the effective date of the act to twelve months.

--- END ---