

HOUSE BILL REPORT

E2SSB 5497

As Passed House - Amended:
April 12, 2019

Title: An act relating to establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace.

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 History:

Committee Activity:

Civil Rights & Judiciary: 3/22/19, 3/26/19 [DPA];
Appropriations: 4/6/19, 4/8/19 [DPA(APP w/o CRJ)].

Floor Activity:

Passed House - Amended: 4/12/19, 57-38.

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by House)**

- Establishes the Keep Washington Working Act.
- Creates the Keep Washington Working statewide work group.
- 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.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Jenkins, Chair; Thai, Vice Chair; Goodman, Hansen, Kilduff, Kirby, Orwall, Valdez and Walen.

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.

Minority Report: Do not pass. Signed by 6 members: Representatives Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham, Klippert, Shea and Ybarra.

Staff: Ingrid Lewis (786-7289).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Civil Rights & Judiciary. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele, Sutherland and Ybarra.

Staff: Meghan Morris (786-7119).

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.

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 Amended Bill:

Statewide Work Group.

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

- consist of 11 statewide representatives from labor, immigrant rights advocacy groups, 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 work group 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 the 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.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Civil Rights & Judiciary):

(In support) Three years ago, residents of Washington were stopped at the airport and detained by immigration authorities. It was troubling to see residents of the community stopped. The Attorney General created a binder for state agencies about recommended guidance related to immigration. This was an executive order, but does not have the weight of a statute. There is no comprehensive federal immigration policy. Washington depends on international trade. Thirty percent of Microsoft workers are here on visas. If workers do not feel safe, they and their employers will move to other states or countries. The workers contribute to the community and economy. Immigrants work in the hospitality, health care, and agricultural industries. Creating a positive business environment is essential to keeping employees. State and local agencies funded by tax dollars need to serve and protect Washington residents. This bill does not prevent employers from complying with federal laws. This bill is supported by numerous Washington businesses and organizations.

This bill is important because it provides protections for agricultural workers and growers. The fear of deportation impacts the community. This bill encourages local law enforcement to keep doing the good work that they do, but not the work of the federal civil immigration authorities. The bill fixes discretionary practices. Washington has the right to choose not to enforce federal programs against its residents. This bill brings clarity and consistency to the state.

Domestic violence victims should be able to trust and access protection from law enforcement. Immigrants' fears negatively impact the reporting, investigation, and prosecution of domestic violence, sexual assault, and human trafficking. Fear in the immigrant community adversely impacts law enforcement safety.

There is a decline in immigrant consumers because of the latest measures by immigration enforcement. People are scared and afraid to go out and do not want to make big purchases because of the tenuous nature of their immigration status. A parent should not be picked up by immigration enforcement while picking a child up from school. Children grow up aware of immigration status and how interaction with law enforcement could result in detention and subsequent deportation.

This bill calls for the repeal of discriminatory statutes pertaining to anti-Asian populations. These statutes should have been repealed long ago.

The right to privacy is important. This will benefit not only immigrants, but everyone. Government will be less coercive and intrusive. This bill will unburden taxpayers from paying for the collection of unnecessary information.

(Opposed) None.

(Other) The word "warrant" should be used only in criminal actions, not civil matters. Many officers use federal immigration authorities for language services because of its availability and cost-effectiveness. If the use of the service is prohibited, there should be funding in the budget for agencies to access alternate services.

It is important for law enforcement to preserve the right and duty to protect the community and enforce criminal law. The balance is between criminal and civil law. Immigration status

by itself is of no matter to law enforcement. It is only when immigration status is relevant to a criminal investigation that it becomes important.

Staff Summary of Public Testimony (Appropriations):

(In support) There are people and immigrant communities in Washington who experience real fear every day. This state cannot flourish when fear leads to witnesses not reporting crimes, parents not dropping their children off at school, and employees not making it to work. This bill does not violate federal law and should not jeopardize any federal funding for the state. The positive economic impacts of supporting and empowering employees far outweighs the cost to the state.

(Opposed) None.

(Other) People should not be afraid to report crime in any community or jurisdiction. It is important for the state to retain its ability to enforce criminal law. This bill has a lot of positive aspects. However, the definition of "civil warrant" should be changed to "civil action" in several places. Stating "civil immigration warrant" heightens the level of the severity, when it is really only a "civil immigration action." In addition, there are concerns about prohibiting law enforcement agencies from entering into contracts for language services. Local agencies will need additional funding if they are not able to utilize cost-effective services.

Persons Testifying (Civil Rights & Judiciary): (In support) Senator Wellman, prime sponsor; Bernal Baca, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organizations; Tim Warden-Hertz, Northwest Immigrant Rights Project; Tawfik Maduah, OneAmerica; Victor Minjares, Centro Integral Educativo Para Latin Strengthening Sanctuary; Enoka Herat, American Civil Liberties Union of Washington; Paul Quinonez, Washington Immigration Solidarity Network; and Michael Brunson.

(Other) Michael Transue, Washington Fraternal Order of Police; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Testifying (Appropriations): (In support) Tim Warden-Hertz, Northwest Immigrant Rights Project; and Julia Gorton, Washington Hospitality Association.

(Other) James McMahan, Washington Association of Sheriffs and Police Chiefs; and Michael Transue, Washington Fraternal Order of Police.

Persons Signed In To Testify But Not Testifying (Civil Rights & Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.