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**SENATE BILL 5497**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Wellman, Nguyen, Hasegawa, Kuderer, Frockt, Das, Keiser, Saldaña, Mullet, McCoy, Randall, Cleveland, Hunt, Lias, Conway, and Darneille

Read first time 01/23/19. Referred to Committee on Law & Justice.

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; adding a new section to chapter  
6 72.09 RCW; creating new sections; repealing RCW 10.70.140 and  
7 10.70.150; and declaring an emergency.

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

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

13 (2) The legislature also finds that Washington employers rely on  
14 a diverse workforce to ensure the economic vitality of the state.  
15 Nearly one million Washingtonians are immigrants, which is one out of  
16 every seven people in the state. Immigrants make up over sixteen  
17 percent of the workforce. In addition, fifteen percent of all  
18 business owners in the state were born outside the country, and these  
19 business owners have a large impact on the economy through innovation  
20 and the creation of jobs. Immigrants make a significant contribution  
21 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 8 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 United States immigration  
16 and customs enforcement or United States customs and border  
17 protection, and includes, but is not limited to, administrative  
18 warrants issued on forms I-200 or I-203, or their successors, and  
19 civil immigration warrants entered in the national crime information  
20 center database.

21 (2) "Federal immigration authority" means any officer, employee,  
22 or person otherwise paid by or acting as an agent of United States  
23 immigration and customs enforcement, also known as "ICE," or United  
24 States customs and border protection, also known as "CBP," or any  
25 present or future divisions thereof, or any other officer, employee,  
26 or person otherwise paid by or acting as an agent of the United  
27 States department of homeland security, who is charged with  
28 immigration enforcement.

29 (3) "Health facility" has the same meaning as the term "health  
30 care facility" provided in RCW 70.175.020, and includes substance  
31 abuse treatment facilities.

32 (4) "Hold request" means a United States immigration and customs  
33 enforcement or United States customs and border protection request,  
34 or immigration detainer request, without a judicial warrant, that a  
35 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 United States immigration and customs enforcement and includes, but

1 is not limited to, department of homeland security form I-247A or  
2 prior or subsequent versions of form I-247.

3 (5) "Immigration or citizenship status" means a person's recorded  
4 citizenship or immigration status, as such status is defined in the  
5 immigration and nationality act.

6 (6) "Judicial warrant" means a warrant based on probable cause  
7 and issued by a federal judge or a federal magistrate judge that  
8 authorizes federal immigration authorities to take into custody the  
9 person who is the subject of the warrant.

10 (7) "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 (8) "Local law enforcement agency" means any agency of a city,  
16 county, special district, or other political subdivision of the state  
17 that is authorized to enforce criminal statutes, regulations, or  
18 local ordinances; or to operate jails or to maintain custody of  
19 individuals in jails; or to operate juvenile detention facilities or  
20 to maintain custody of individuals in juvenile detention facilities;  
21 or to monitor compliance with probation or parole conditions.

22 (9) "Notification request" means a United States immigration and  
23 customs enforcement or a United States customs and border protection  
24 request that a state or local law enforcement agency inform either  
25 agency of the release date and time in advance of the release of an  
26 individual in its custody and includes, but is not limited to, the  
27 department of homeland security's form I-247A, form I-247N, or prior  
28 or subsequent versions of such forms.

29 (10) "Physical custody of the department of corrections" means  
30 only those individuals detained in a state correctional facility but  
31 does not include minors detained pursuant to chapter 13.40 RCW, or  
32 individuals in community custody pursuant to RCW 9.94A.731 or chapter  
33 72.65 RCW.

34 (11) "Public schools" means all public elementary and secondary  
35 schools under the jurisdiction of local governing boards or a charter  
36 school board and all institutions of higher education as defined in  
37 RCW 28B.10.016.

38 (12) "School resource officer" means any law enforcement officer  
39 who contracts with or whose law enforcement agency contracts with any  
40 charter school, educational service district, school, school

1 district, or institution of higher education as defined in RCW  
2 28B.10.016 to provide law enforcement services, or any law  
3 enforcement officer whose primary responsibility is to provide law  
4 enforcement to schools.

5 (13) "State agency" has the same meaning as provided in RCW  
6 42.56.010.

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

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

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

14 (b) Conduct research on methods to strengthen career pathways for  
15 immigrants and create and enhance partnerships with projected growth  
16 industries;

17 (c) Support business and agriculture leadership, civic groups,  
18 government, and immigrant advocacy organizations in a statewide  
19 effort to provide predictability and stability to the workforce in  
20 the agriculture industry; and

21 (d) Recommend approaches to improve Washington's ability to  
22 attract and retain immigrant business owners that provide new  
23 business and trade opportunities.

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

1 (3) In addition to the duties and powers described in RCW  
2 43.330.040, it is the director's duty to provide support to the work  
3 group.

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

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

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

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

18 (a) Adopt necessary changes to policies consistent with the model  
19 policy; or

20 (b) Notify the attorney general that the agency is not adopting  
21 the changes to its policies consistent with the model policy, state  
22 the reasons that the agency is not adopting the changes, and provide  
23 the attorney general with a copy of the agency's policies.

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

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

29 (5) Implementation of any policy under this section must be in  
30 accordance with state and federal law; policies, grants, waivers, or  
31 other requirements necessary to maintain funding; or other agreements  
32 related to the operation and functions of the organization, including  
33 databases within the organization.

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

36 (1) The following state agencies shall review their  
37 confidentiality policies and identify any changes necessary to ensure  
38 that information collected from individuals is limited to that

1 necessary to perform agency duties and is not used or disclosed for  
2 any other purpose. Any necessary changes to those policies shall be  
3 made as expeditiously as possible, consistent with agency or  
4 department procedures. These policies shall make clear that public  
5 employees may not condition services or request information or proof  
6 regarding a person's immigration or citizenship status, or place of  
7 birth, except as required by law. The policies must also ensure that  
8 public services are available to, and public employees shall serve,  
9 all Washington residents without regard to immigration or citizenship  
10 status. Final policies must be published.

11 (a) The following departments shall begin implementation within  
12 six months after the effective date of this section and demonstrate  
13 full compliance by December 1, 2021:

- 14 (i) Department of licensing;
- 15 (ii) Department of labor and industries;
- 16 (iii) Employment security department;
- 17 (iv) Department of revenue;
- 18 (v) Department of health;
- 19 (vi) Health care authority;
- 20 (vii) Department of social and health services;
- 21 (viii) Department of children, youth, and families;
- 22 (ix) Office of the superintendent of public instruction;
- 23 (x) State patrol.

24 (b) The following departments may begin implementation of this  
25 section December 1, 2021, and must demonstrate full compliance by  
26 December 1, 2023:

- 27 (i) Department of agriculture;
- 28 (ii) Department of financial institutions;
- 29 (iii) Department of fish and wildlife;
- 30 (iv) Department of natural resources;
- 31 (v) Department of retirement;
- 32 (vi) Department of services for the blind;
- 33 (vii) Department of transportation.

34 (2) For any databases operated by state law enforcement agencies,  
35 including databases maintained for the agency by private vendors, the  
36 attorney general shall, by January 1, 2020, in consultation with  
37 appropriate stakeholders, publish guidance, audit criteria, and  
38 training recommendations aimed at ensuring that those databases are  
39 governed in a manner that limits the availability of information  
40 therein, to the fullest extent practicable and consistent with

1 federal and state law, to anyone or any entity for the purpose of  
2 immigration enforcement. All state law enforcement agencies must  
3 either:

4 (a) Adopt necessary changes and publish final policies to  
5 database governance policies consistent with that guidance; or

6 (b) Notify the attorney general that the agency is not adopting  
7 the changes to its database governance policies consistent with the  
8 guidance, state the reasons that the agency is not adopting the  
9 changes, and provide the attorney general with a copy of the agency's  
10 database governance policies.

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

13 No state agency or department, including law enforcement, may use  
14 agency or department funds, facilities, property, equipment, or  
15 personnel to investigate, enforce, cooperate with, or assist in the  
16 investigation or enforcement of any federal registration or  
17 surveillance programs or any other laws, rules, or policies that  
18 target Washington residents solely on the basis of race, religion,  
19 immigration or citizenship status, or national or ethnic origin. This  
20 section does not apply to deidentified or aggregate data, including  
21 census data.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 10.93  
23 RCW to read as follows:

24 (1) The definitions contained in section 2 of this act apply to  
25 this section.

26 (2) For any databases operated by state and local law enforcement  
27 agencies, including databases maintained for the agency by private  
28 vendors, the attorney general shall, by January 1, 2020, in  
29 consultation with appropriate stakeholders, publish guidance, audit  
30 criteria, and training recommendations aimed at ensuring that those  
31 databases are governed in a manner that limits the availability of  
32 information therein to the fullest extent practicable and consistent  
33 with federal and state law, to anyone or any entity for the purpose  
34 of immigration enforcement. All state and local law enforcement  
35 agencies must either:

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

1 (b) Notify the attorney general that the agency is not adopting  
2 the changes to its database governance policies consistent with the  
3 guidance, state the reasons that the agency is not adopting the  
4 changes, and provide the attorney general with a copy of the agency's  
5 database governance policies.

6 (3) The legislature finds that it is not the primary purpose of  
7 state and local law enforcement agencies, school resource officers,  
8 or security departments to enforce civil federal immigration law. The  
9 legislature further finds that the immigration status of an  
10 individual or an individual's presence in, entry, or reentry to, or  
11 employment in the United States alone, is not a matter for police  
12 action, and that United States immigration and customs enforcement  
13 has primary jurisdiction for enforcement of the provisions of Title 8  
14 U.S.C. dealing with illegal entry.

15 (4) State and local law enforcement agencies, school resource  
16 officers, and security departments may not:

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

19 (b) Provide information pursuant to notification requests, as  
20 defined in this act, from federal immigration authorities, for the  
21 purposes of civil immigration enforcement.

22 (5) State and local law enforcement agencies may not provide  
23 nonpublicly available personal information about an individual,  
24 including individuals subject to community custody pursuant to RCW  
25 9.94A.701 and 9.94A.702, to federal immigration authorities in a  
26 noncriminal matter, except as required by law.

27 (6)(a) State and local law enforcement agencies may not give  
28 federal immigration authorities access to interview individuals about  
29 a noncriminal matter while they are in custody, except as required by  
30 law.

31 (b) If permission is granted to United States immigration and  
32 customs enforcement or United States customs and border protection,  
33 for the purpose of conducting an interview regarding civil  
34 immigration violations between either United States immigration and  
35 customs enforcement or United States customs and border protection,  
36 or both, and the person is in the custody of a state or local law  
37 enforcement agency, agency staff shall provide the person with an  
38 oral explanation and a written consent form that explains the purpose  
39 of the interview, that the interview is voluntary, and that the  
40 person may decline to be interviewed or may choose to be interviewed



1 only with the person's attorney present. The form shall state  
2 explicitly that the person will not be punished or suffer retaliation  
3 for declining to be interviewed. The form must be available in  
4 English and Spanish and explained orally to a person who is unable to  
5 read the form, using, when necessary, an interpreter from the  
6 district communications center "language line" or other district  
7 resources. United States immigration and customs enforcement or  
8 United States customs and border protection officials, must only be  
9 permitted to interview persons who have consented in writing to be  
10 interviewed, absent a judicial warrant.

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

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

17 (9) An individual must be provided consular notification as  
18 required or authorized by treaty or applicable law, regardless of the  
19 individual's nationality, citizenship, or immigration status. Prior  
20 to consular notification, state and local law enforcement agencies  
21 must notify the individual in writing of their right to refuse to  
22 disclose their nationality, citizenship, or immigration status and  
23 that such disclosure may result in civil or criminal immigration  
24 enforcement, including removal from the United States. State and  
25 local law enforcement agencies must obtain written consent to  
26 disclose national, citizenship, or immigration status prior to  
27 consular notification.

28 (10) A state and local law enforcement agency may not deny  
29 services, benefits, privileges, or opportunities to individuals in  
30 custody, or under community custody pursuant to RCW 9.94A.701 and  
31 9.94A.702, or probation status, on the basis of the presence of an  
32 immigration detainer, hold, notification request, or civil  
33 immigration warrant.

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

1 (12) No state or local law enforcement agency, school resource  
2 officer, or security department may use agency or department  
3 facilities, or enter into or renew a contract, agreement,  
4 intergovernmental service agreement, or memorandum of understanding,  
5 for the purpose of housing or detaining individuals for federal civil  
6 immigration authorities. Such contracts, agreements, or memoranda  
7 with federal immigration authorities to hold noncitizens in effect  
8 prior to January 1, 2019, and under which payments were made since  
9 July 1, 2017, may remain in effect until the date of completion or  
10 termination.

11 (13) No state or local law enforcement agency, school resource  
12 officer, or security department may enter into or renew a contract  
13 for the provision of language services from the United States  
14 department of homeland security, United States immigration and  
15 customs enforcement, or United States customs and border protection,  
16 nor may any language services be accepted from such for free or  
17 otherwise.

18 (14) The provisions of this section do not apply to individuals  
19 who are in the physical custody of the department of corrections.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09  
21 RCW to read as follows:

22 (1) The definitions contained in section 2 of this act apply to  
23 this section.

24 (2) The provisions of this section apply to individuals in the  
25 physical custody of the department.

26 (3) Prior to an interview with federal immigration authorities,  
27 the department shall provide, in writing, information about the right  
28 to stay silent and an opportunity for the person in custody to  
29 decline to be interviewed by federal immigration authorities, absent  
30 a warrant.

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

35 (5) An individual must be provided consular notification as  
36 required or authorized by treaty or applicable law, regardless of the  
37 individual's nationality, citizenship, or immigration status. Prior  
38 to consular notification, the department of corrections must notify  
39 the individual orally and in writing of their right to refuse to

1 disclose their nationality, citizenship, or immigration status and  
2 that such disclosure may result in civil or criminal immigration  
3 enforcement, including removal from the United States.

4 (6) The department must not inquire into or collect information  
5 about an individual's immigration or citizenship status, or place of  
6 birth.

7 (7) The department must not deny services, benefits, privileges,  
8 or opportunities to individuals, on the basis of the presence of an  
9 immigration detainer, hold, notification request, or civil  
10 immigration warrant or other communications or requests from the  
11 United States immigration and customs enforcement or United States  
12 customs and border protection.

13 (8) Individuals identified by federal immigration authorities to  
14 be eligible for early release for deportation pursuant to RCW  
15 9.94A.685 must provide written consent to such early release.

16 (9) The department must not enter into or renew a contract for  
17 the provision of language services from the United States department  
18 of homeland security, United States immigration and customs  
19 enforcement, or United States customs and border protection, nor may  
20 any language services be accepted from such for free or otherwise.

21 (10) The department must not enter into any contract, agreement,  
22 or arrangement, whether written or oral, that would grant federal  
23 civil immigration enforcement authority or powers to state law  
24 enforcement officers, including but not limited to agreements created  
25 under 8 U.S.C. Sec. 1357(g), also known as 287(g) agreements.

26 (11) The department must not use agency or department facilities  
27 or vehicles, or enter into or renew a contract, agreement,  
28 intergovernmental service agreement, or memorandum of understanding,  
29 for the purpose of transporting, housing, or detaining individuals  
30 for federal civil immigration authorities.

31 NEW SECTION. **Sec. 9.** In accordance with 8 U.S.C. Sec. 1373,  
32 nothing in this act prohibits any state or local agency or officer  
33 from sending to, or receiving from, federal immigration authorities  
34 the citizenship or immigration status of a person, or maintaining  
35 such information. Nothing in this act prohibits a state or local  
36 agency from exchanging the citizenship or immigration status of an  
37 individual with any other federal, state, or local government agency.

1        NEW SECTION.    **Sec. 10.**    If any part of this act is found to be in  
2 conflict with federal requirements that are a prescribed condition to  
3 the allocation of federal funds to the state, the conflicting part of  
4 this act is inoperative solely to the extent of the conflict and with  
5 respect to the agencies directly affected, and this finding does not  
6 affect the operation of the remainder of this act in its application  
7 to the agencies concerned. Rules adopted under this act must meet  
8 federal requirements that are a necessary condition to the receipt of  
9 federal funds by the state.

10        NEW SECTION.    **Sec. 11.**    The following acts or parts of acts are  
11 each repealed:

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

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

16        NEW SECTION.    **Sec. 12.**    This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of  
18 the state government and its existing public institutions, and takes  
19 effect immediately.

--- END ---