
SENATE BILL 5002

State of Washington

69th Legislature

2025 Regular Session

By Senator Fortunato

Prefiled 12/02/24.

1 AN ACT Relating to federal immigration enforcement; adding a new
2 chapter to Title 43 RCW; repealing RCW 2.28.300, 2.28.310, 2.28.320,
3 2.28.330, 2.28.340, 3.02.070, 35.20.290, 43.17.420, 43.330.510,
4 43.10.310, 43.17.425, 10.93.160, and 43.10.315; and repealing 2020 c
5 37 s 1 (uncodified).

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

7 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND INTENT. The
8 legislature recognizes the state's policy interest in protecting
9 immigrant communities and cooperating and assisting the federal
10 government in the enforcement of federal immigration laws within this
11 state. The legislature further finds that immigrant communities are
12 often the most victimized by illegal immigration and that criminal
13 organizations involved in illegal immigration disproportionately
14 target immigrant communities with criminal activity and flagrant
15 abuses of human rights. The legislature intends to respect and
16 protect the health, safety, and dignity of all immigrant communities
17 by establishing a statewide policy that encourages a collaborative
18 partnership with United States immigration and customs enforcement to
19 address and prevent criminal illegal immigration activities and the
20 criminal organizations that facilitate illegal immigration and
21 related crimes.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) "Federal immigration agency" means the United States
5 department of justice and the United States department of homeland
6 security, a division within such an agency, including United States
7 immigration and customs enforcement and United States customs and
8 border protection, any successor agency, and any other federal agency
9 charged with the enforcement of immigration law.

10 (2) "Immigration detainer" means a facially sufficient written or
11 electronic request issued by a federal immigration agency using that
12 agency's official form to request that another law enforcement agency
13 detain a person based on probable cause to believe that the person to
14 be detained is a removable alien under federal immigration law,
15 including detainers issued pursuant to 8 U.S.C. Secs. 1226 and 1357
16 along with a warrant described in (b)(ii) of this subsection. For
17 purposes of this subsection, an immigration detainer is deemed
18 facially sufficient if:

19 (a) The federal immigration agency's official form is complete
20 and indicates on its face that the federal immigration official has
21 probable cause to believe that the person to be detained is a
22 removable alien under federal immigration law; or

23 (b)(i) The federal immigration agency's official form is
24 incomplete and fails to indicate on its face that the federal
25 immigration official has probable cause to believe that the person to
26 be detained is a removable alien under federal immigration law, but
27 is supported by an affidavit, order, or other official documentation
28 that indicates that the federal immigration agency has probable cause
29 to believe that the person to be detained is a removable alien under
30 federal immigration law; and

31 (ii) The federal immigration agency supplies with its detention
32 request a form I-200 warrant for arrest of alien or a form I-205
33 warrant of removal/deportation or a successor warrant or other
34 warrant authorized by federal law.

35 (3) "Inmate" means a person in the custody of a law enforcement
36 agency.

37 (4) "Law enforcement agency" means an agency in this state
38 charged with enforcement of state, county, municipal, or federal laws
39 or with managing custody of detained persons in this state and
40 includes municipal police departments, sheriff's offices, state

1 police departments, state university and college police departments,
2 county correctional agencies, and the department of corrections.

3 (5) "Local governmental entity" means any county, municipality,
4 or other political subdivision of this state.

5 (6) "Sanctuary policy" means a law, policy, practice, procedure,
6 or custom adopted or allowed by a state entity or local governmental
7 entity which prohibits or impedes a law enforcement agency from
8 complying with 8 U.S.C. Sec. 1373 or which prohibits or impedes a law
9 enforcement agency from communicating or cooperating with a federal
10 immigration agency so as to limit such law enforcement agency in, or
11 prohibit the agency from:

12 (a) Complying with an immigration detainer;

13 (b) Complying with a request from a federal immigration agency to
14 notify the agency before the release of an inmate or detainee in the
15 custody of the law enforcement agency;

16 (c) Providing a federal immigration agency access to an inmate
17 for interview;

18 (d) Participating in any program or agreement authorized under
19 section 287 of the immigration and nationality act, 8 U.S.C. Sec.
20 1357; or

21 (e) Providing a federal immigration agency with an inmate's
22 incarceration status or release date.

23 (7) "State entity" means the state or any office, board, bureau,
24 commission, department, branch, division, or institution thereof,
25 including public institutions of higher education.

26 NEW SECTION. **Sec. 3.** SANCTUARY POLICIES PROHIBITED. A state
27 entity, law enforcement agency, or local governmental entity may not
28 adopt or have in effect a sanctuary policy.

29 NEW SECTION. **Sec. 4.** COOPERATION WITH FEDERAL IMMIGRATION
30 AUTHORITIES. (1) A law enforcement agency shall use best efforts to
31 support the enforcement of federal immigration law. This subsection
32 applies to an official, representative, agent, or employee of the
33 entity or agency only when he or she is acting within the scope of
34 his or her official duties or within the scope of his or her
35 employment.

36 (2) Except as otherwise expressly prohibited by federal law, a
37 state entity, local governmental entity, or law enforcement agency,
38 or an employee, agent, or representative of the entity or agency, may

1 not prohibit or in any way restrict a law enforcement agency from
2 taking any of the following actions with respect to information
3 regarding a person's immigration status:

4 (a) Sending the information to or requesting, receiving, or
5 reviewing the information from a federal immigration agency for
6 purposes of this chapter;

7 (b) Recording and maintaining the information for purposes of
8 this chapter;

9 (c) Exchanging the information with a federal immigration agency
10 or another state entity, local governmental entity, or law
11 enforcement agency for purposes of this chapter;

12 (d) Using the information to comply with an immigration detainer;
13 or

14 (e) Using the information to confirm the identity of a person who
15 is detained by a law enforcement agency.

16 (3)(a) For purposes of this subsection, the term "applicable
17 criminal case" means a criminal case in which:

18 (i) The judgment requires the defendant to be confined in a
19 secure correctional facility; and

20 (ii) The judge:

21 (A) Indicates in the record under section 5 of this act that the
22 defendant is subject to an immigration detainer; or

23 (B) Otherwise indicates in the record that the defendant is
24 subject to a transfer into federal custody.

25 (b) In an applicable criminal case, when the judge sentences a
26 defendant who is the subject of an immigration detainer to
27 confinement, the judge shall issue an order requiring the secure
28 correctional facility in which the defendant is to be confined to
29 reduce the defendant's sentence by a period of not more than twelve
30 days on the facility's determination that the reduction in sentence
31 will facilitate the seamless transfer of the defendant into federal
32 custody. For purposes of this subsection, the term "secure
33 correctional facility" means a correctional institution operated by
34 the state, a county, or a municipality.

35 (c) If the information specified in (a)(ii)(A) and (B) of this
36 subsection is not available at the time the sentence is pronounced in
37 the case, but is received by a law enforcement agency afterwards, the
38 law enforcement agency shall notify the judge who shall issue the
39 order described by (b) of this subsection as soon as the information
40 becomes available.

1 (4) When a county correctional facility or the department of
2 corrections receives verification from a federal immigration agency
3 that a person subject to an immigration detainer is in the law
4 enforcement agency's custody, the agency may securely transport the
5 person to a federal facility in this state or to another point of
6 transfer to federal custody outside the jurisdiction of the law
7 enforcement agency. The law enforcement agency may transfer a person
8 who is subject to an immigration detainer and is confined in a secure
9 correctional facility to the custody of a federal immigration agency
10 not earlier than twelve days before his or her release date. A law
11 enforcement agency shall obtain judicial authorization before
12 securely transporting an alien to a point of transfer outside of this
13 state.

14 (5) This section does not require a state entity, local
15 governmental entity, or law enforcement agency to provide a federal
16 immigration agency with information related to a victim of or a
17 witness to a criminal offense if the victim or witness timely and in
18 good faith responds to the entity's or agency's request for
19 information and cooperation in the investigation or prosecution of
20 the offense.

21 (6) A state entity, local governmental entity, or law enforcement
22 agency that, pursuant to subsection (5) of this section, withholds
23 information regarding the immigration information of a victim of or
24 witness to a criminal offense shall document the victim's or
25 witness's cooperation in the entity's or agency's investigative
26 records related to the offense and shall retain the records for at
27 least ten years for the purpose of audit, verification, or inspection
28 by the state auditor.

29 (7) This section does not authorize a law enforcement agency to
30 detain an alien unlawfully present in the United States pursuant to
31 an immigration detainer solely because the alien witnessed or
32 reported a crime or was a victim of a criminal offense.

33 (8) This section does not apply to any alien unlawfully present
34 in the United States if he or she is or has been a necessary witness
35 or victim of a crime of domestic violence, rape, sexual exploitation,
36 sexual assault, murder, manslaughter, assault, battery, human
37 trafficking, kidnapping, false imprisonment, involuntary servitude,
38 fraud in foreign labor contracting, blackmail, extortion, or witness
39 tampering.

1 NEW SECTION. **Sec. 5.** DUTIES RELATED TO IMMIGRATION DETAINERS.

2 (1) A law enforcement agency that has custody of a person subject to
3 an immigration detainer issued by a federal immigration agency shall:

4 (a) Provide to the judge authorized to grant or deny the person's
5 release on bail notice that the person is subject to an immigration
6 detainer;

7 (b) Record in the person's case file that the person is subject
8 to an immigration detainer; and

9 (c) Upon determining that the immigration detainer is in
10 accordance with section 2(2) of this act, comply with the requests
11 made in the immigration detainer.

12 (2) A law enforcement agency is not required to perform a duty
13 imposed by subsection (1)(a) or (b) of this section with respect to a
14 person who is transferred to the custody of the agency by another law
15 enforcement agency if the transferring agency performed that duty
16 before the transfer.

17 (3) A judge who receives notice that a person is subject to an
18 immigration detainer shall cause the fact to be recorded in the court
19 record, regardless of whether the notice is received before or after
20 a judgment in the case.

21 NEW SECTION. **Sec. 6.** REIMBURSEMENT OF COSTS. Each county

22 correctional facility shall enter into an agreement or agreements
23 with a federal immigration agency for temporarily housing persons who
24 are the subject of immigration detainers and for the payment of the
25 costs of housing and detaining those persons. A compliant agreement
26 may include any contract between a correctional facility and a
27 federal immigration agency for housing or detaining persons subject
28 to immigration detainers, such as basic ordering agreements in effect
29 on or after the effective date of this section, agreements authorized
30 by section 287 of the immigration and nationality act, 8 U.S.C. Sec.
31 1357, or successor agreements and other similar agreements authorized
32 by federal law.

33 NEW SECTION. **Sec. 7.** ENFORCEMENT. (1) Any executive or

34 administrative state, county, or municipal officer who violates his
35 or her duties under this chapter may be subject to action by the
36 attorney general in the exercise of his or her authority under the
37 state Constitution and state law. Pursuant to existing law, the
38 attorney general may initiate judicial proceedings in the name of the

1 state against such officers to enforce compliance with any duty under
2 this chapter or restrain any unauthorized act contrary to this
3 chapter.

4 (2) In addition, the attorney general may file suit against a
5 local governmental entity or local law enforcement agency in a court
6 of competent jurisdiction for declaratory or injunctive relief for a
7 violation of this chapter.

8 (3) If a local governmental entity or local law enforcement
9 agency violates this chapter, the court must enjoin the unlawful
10 sanctuary policy. The court has continuing jurisdiction over the
11 parties and subject matter and may enforce its orders with the
12 initiation of contempt proceedings as provided by law.

13 (4) An order approving a consent decree or granting an injunction
14 must include written findings of fact that describe with specificity
15 the existence and nature of the sanctuary policy that violates this
16 chapter.

17 NEW SECTION. **Sec. 8.** EDUCATION RECORDS. This chapter does not
18 apply to the release of information contained in education records of
19 an educational agency or institution, except in conformity with the
20 family educational rights and privacy act of 1974, 20 U.S.C. Sec.
21 1232g.

22 NEW SECTION. **Sec. 9.** DISCRIMINATION PROHIBITED. A state entity,
23 a local governmental entity, or a law enforcement agency, or a person
24 employed by or otherwise under the direction or control of the entity
25 or agency, may not base its actions under this chapter on the gender,
26 race, religion, national origin, or physical disability of a person
27 except to the extent authorized by the United States Constitution or
28 the state Constitution.

29 NEW SECTION. **Sec. 10.** EXISTING POLICIES. A sanctuary policy, as
30 defined in section 2 of this act, that is in effect on the effective
31 date of this section violates the public policy of this state and
32 must be repealed within ninety days after that date.

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

35 (1) 2020 c 37 s 1 (uncodified);

- 1 (2) RCW 2.28.300 (Definitions—Immigration enforcement and civil
2 arrests) and 2020 c 37 s 2;
- 3 (3) RCW 2.28.310 (Immigration and citizenship information—Federal
4 immigration authorities) and 2020 c 37 s 3;
- 5 (4) RCW 2.28.320 (Law enforcement actions in court facilities—
6 Completion of information form—Notice to court staff) and 2020 c 37 s
7 4;
- 8 (5) RCW 2.28.330 (Privilege from civil arrest—Court facilities)
9 and 2020 c 37 s 5;
- 10 (6) RCW 2.28.340 (Applicability of courts open to all act) and
11 2020 c 37 s 6;
- 12 (7) RCW 3.02.070 (Applicability of courts open to all act) and
13 2020 c 37 s 7;
- 14 (8) RCW 35.20.290 (Applicability of courts open to all act) and
15 2020 c 37 s 8;
- 16 (9) RCW 43.17.420 (Immigration and citizenship status—
17 Definitions) and 2019 c 440 s 2;
- 18 (10) RCW 43.330.510 (Keep Washington working statewide work
19 group) and 2019 c 440 s 3;
- 20 (11) RCW 43.10.310 (Immigration enforcement model policies—
21 Adoption by schools, health facilities, courthouses) and 2019 c 440 s
22 4;
- 23 (12) RCW 43.17.425 (Immigration and citizenship status—State
24 agency restrictions) and 2019 c 440 s 5;
- 25 (13) RCW 10.93.160 (Immigration and citizenship status—Law
26 enforcement agency restrictions) and 2019 c 440 s 6; and
- 27 (14) RCW 43.10.315 (Immigration enforcement model policies—
28 Adoption by law enforcement agencies) and 2019 c 440 s 7.

29 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act
30 constitute a new chapter in Title 43 RCW.

--- END ---