

RCW 10.93.160 Immigration and citizenship status—Law enforcement agency restrictions. (1) The definitions contained in RCW 43.17.420 apply to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) (a) No state agency or local government or law enforcement officer may enter into an immigration detention agreement. All immigration detention agreements must be terminated no later than one hundred eighty days after May 21, 2019, except as provided in (b) of this subsection.

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

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

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

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

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

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

(b) In response to a lawfully issued court order. [2019 c 440 § 6.]

Findings—Construction—Conflict with federal requirements—
Effective date—2019 c 440: See notes following RCW 43.17.425.