

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 198

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO IMMIGRATION; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION  
2 OF A NEW CHAPTER 59, TITLE 19, IDAHO CODE, TO PROVIDE LEGISLATIVE IN-  
3 TENT, TO DEFINE TERMS, TO PROVIDE APPLICABILITY, TO PROVIDE CERTAIN  
4 REQUIREMENTS FOR A LOCAL GOVERNMENT POLICY REGARDING IMMIGRATION EN-  
5 FORCEMENT, TO PROVIDE PROCEDURES FOR FILING A COMPLAINT, TO PROVIDE FOR  
6 RELIEF AVAILABLE AND TO AUTHORIZE THE DENIAL OF A PORTION OF SALES TAX  
7 DISTRIBUTION FUNDS IN CERTAIN INSTANCES; PROVIDING SEVERABILITY; AND  
8 DECLARING AN EMERGENCY.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Title 19, Idaho Code, be, and the same is hereby amended  
12 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
13 ter 59, Title 19, Idaho Code, and to read as follows:

14 CHAPTER 59

15 COMPLIANCE WITH IMMIGRATION LAW

16 19-5901. LEGISLATIVE INTENT. The intention of the legislature is for  
17 state and local law enforcement agencies to cooperate with federal immigra-  
18 tion authorities when a person is arrested on misdemeanor or felony charges  
19 and booked into custody when it is discovered that the person is subject to  
20 United States immigration and customs enforcement orders or warrants. The  
21 legislature makes no attempt to create a basis in state law for law enforce-  
22 ment agencies to actively seek out violations of immigration law as a primary  
23 offense or to hold or detain a person beyond what is warranted by the probable  
24 cause found of violation of the laws of the state of Idaho.

25 19-5902. DEFINITIONS. As used in this chapter:

26 (1) "Employee" is as defined in section 6-902(4), Idaho Code.

27 (2) "Governmental entity" means and includes the "state" and "politi-  
28 cal subdivision" as defined in this section.

29 (3) "Immigration laws" means the laws of this state or federal law re-  
30 lating to immigrants or immigration, including the federal immigration and  
31 nationality act, 8 U.S.C. 1101 et seq.

32 (4) "Policy" includes a formal, written rule, order, ordinance or pol-  
33 icy and an informal, unwritten policy.

34 (5) "Political subdivision" is as defined in section 19-5101(e), Idaho  
35 Code.

36 (6) "State" is as defined in section 6-902(1), Idaho Code.

37 19-5903. APPLICABILITY. (1) The provisions of this chapter shall not  
38 apply to a school district or open-enrollment charter school. The provi-  
39 sions of this chapter shall not apply to the release of information contained

1 in education records of an educational agency or institution, except in con-  
2 formity with the family educational rights and privacy act of 1974, 20 U.S.C.  
3 1232g. Nothing in this chapter shall be construed to compel an employee of a  
4 law enforcement agency serving in the capacity of a school resource officer  
5 from releasing information collected or known as a result of his or her role  
6 as a school resource officer.

7 (2) The provisions of this chapter shall not apply to a hospital or hos-  
8 pital district.

9 19-5904. LOCAL GOVERNMENT POLICY REGARDING IMMIGRATION ENFORCE-  
10 MENT. A governmental entity shall not adopt, enforce or endorse a policy  
11 under which the entity prohibits or discourages cooperation with the en-  
12 forcement of immigration laws.

13 19-5905. COMPLAINT -- EQUITABLE RELIEF. (1) Any citizen of the state  
14 of Idaho may file a complaint with the attorney general if the person offers  
15 evidence to support an allegation that a governmental entity has adopted,  
16 enforced or endorsed a policy under which the entity prohibits or discour-  
17 ages the enforcement of immigration laws or that the entity, by consistent  
18 actions, prohibits or discourages the enforcement of those laws. The person  
19 must include with the complaint the evidence the person has that supports the  
20 complaint.

21 (2) A governmental entity for which the attorney general has received a  
22 complaint under subsection (1) of this section shall comply with a document  
23 request, including a request for supporting documents from the attorney gen-  
24 eral, related to the complaint.

25 (3) If the attorney general determines that, based on the complaint and  
26 available evidence, a prima facie case exists that the governmental entity  
27 is in violation of the provisions of this chapter, the attorney general shall  
28 provide written notification to the entity that:

29 (a) The complaint has been filed;

30 (b) The attorney general has determined that a prima facie case exists  
31 that the governmental entity is in violation of the provisions of this  
32 chapter;

33 (c) The attorney general is authorized to file an action to enjoin the  
34 violation if the entity does not come into compliance with the require-  
35 ments of section 19-5907, Idaho Code, on or before the ninetieth day af-  
36 ter the date the notification is provided; and

37 (d) The entity risks being denied a portion of its sales tax distribu-  
38 tion funds for the state fiscal year following the year in which a fi-  
39 nal judicial determination in an action brought under subsection (5) of  
40 this section is made.

41 (4) No later than the thirtieth day after the day a governmental entity  
42 receives written notification under subsection (3) of this section, the gov-  
43 ernmental entity shall provide the attorney general with a copy of:

44 (a) The entity's written policies related to immigration enforcement  
45 actions;

46 (b) Each immigration detainer or warrant received by the entity from  
47 the United States department of homeland security; and

1 (c) Each response sent by the entity for a detainer described in para-  
2 graph (b) of this subsection.

3 (5) If the attorney general determines that, based on a complaint filed  
4 under subsection (1) of this section, a prima facie case exists that the  
5 governmental entity is in violation of the provisions of this chapter, the  
6 attorney general may file a petition for a writ of mandamus or apply for  
7 other appropriate equitable relief in a district court in Ada county, or in  
8 a county in which the principal office of the entity is located, to compel  
9 the entity that adopts, enforces or endorses a policy under which the govern-  
10 mental entity prohibits or discourages the enforcement of immigration laws  
11 or that, by consistent actions, prohibits or discourages the enforcement of  
12 those laws to comply with section 19-5907, Idaho Code. The attorney general  
13 may recover reasonable expenses incurred in obtaining relief under this sub-  
14 section, including court costs, reasonable attorney's fees, investigative  
15 costs, witness fees and deposition costs.

16 19-5906. DENIAL OF SALES TAX DISTRIBUTION FUNDS. (1) A political sub-  
17 division may not receive more than fifty percent (50%) of its designated por-  
18 tion of sales tax appropriations provided for in section 63-3638(10) (a) and  
19 (b), Idaho Code, if the political subdivision adopts, enforces or endorses  
20 a policy under which the entity prohibits or discourages the enforcement of  
21 immigration laws or, by consistent actions, prohibits or discourages the en-  
22 forcement of immigration laws.

23 (2) State funds provided for under section 63-3638(10) (a) and (b),  
24 Idaho Code, for a political subdivision shall be reduced by fifty percent  
25 (50%) for the state fiscal year following the year in which a final judi-  
26 cial determination in an action brought under section 19-5908, Idaho Code,  
27 is made that the political subdivision has violated the provisions of this  
28 chapter. The denial of funds to one (1) or more political subdivisions under  
29 this subsection shall not affect the calculation of the pro rata distribu-  
30 tion of sales tax revenues to other political subdivisions receiving funds  
31 under section 63-3638(10) (a) and (b), Idaho Code.

32 (3) For purposes of this section, a county and a sheriff's office within  
33 that county shall be treated as the same governmental entity. If either the  
34 county or the sheriff's office, or both, are found to have violated the pro-  
35 visions of this chapter and have received a final judicial judgment under  
36 section 19-5908, Idaho Code, the county shall be denied its portion of appro-  
37 priations provided for under section 63-3638(10) (b), Idaho Code.

38 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared  
39 to be severable and if any provision of this act or the application of such  
40 provision to any person or circumstance is declared invalid for any reason,  
41 such declaration shall not affect the validity of the remaining portions of  
42 this act.

43 SECTION 3. An emergency existing therefor, which emergency is hereby  
44 declared to exist, this act shall be in full force and effect on and after its  
45 passage and approval.