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**ENGROSSED SUBSTITUTE HOUSE BILL 1041**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Springer, Cody, Ortiz-Self, Gregerson, Frame, and Jacobsen)

READ FIRST TIME 02/01/21.

1       AN ACT Relating to sunshine committee recommendations regarding  
2 juveniles; amending RCW 7.69A.020, 7.69A.030, 10.97.130, 13.50.050,  
3 and 42.56.240; and reenacting and amending RCW 42.56.230.

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

5       **Sec. 1.** RCW 7.69A.020 and 1993 c 350 s 7 are each amended to  
6 read as follows:

7       Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9       (1) "Crime" means an act punishable as a felony, gross  
10 misdemeanor, or misdemeanor under the laws of this state or  
11 equivalent federal or local law.

12       (2) "Child" means any living child under the age of eighteen  
13 years.

14       (3) "Victim" means a living person against whom a crime has been  
15 committed.

16       (4) "Witness" means a person who has been or is expected to be  
17 summoned to testify for the prosecution in a criminal action, or who  
18 by reason of having relevant information is subject to call or likely  
19 to be called as a witness for the prosecution, whether or not an  
20 action or proceeding has been commenced.

21       (5) "Family member" means child, parent, or legal guardian.

1 (6) "Advocate" means any person, including a family member not  
2 accused of a crime, who provides support to a child victim or child  
3 witness during any legal proceeding.

4 (7) "Court proceedings" means any court proceeding conducted  
5 during the course of the prosecution of a crime committed against a  
6 child victim, including pretrial hearings, trial, sentencing, or  
7 appellate proceedings.

8 (8) "Identifying information" ~~((means))~~ of a living child victim  
9 or witness, includes the child's name, ((address,)) home and other  
10 physical addresses, telephone number, email address, social media  
11 identifier, image, location((, and photograph, and in cases in which  
12 the child is a relative or stepchild of the alleged perpetrator,  
13 identification of)) of the child (except the location of the assault  
14 when it is not the child's address), and the surname of the child's  
15 parent if it is the same as the child's and the parent is not the  
16 alleged perpetrator. In cases where the child victim is a victim of  
17 sexual assault, "identifying information" also includes the  
18 relationship between the child and the alleged perpetrator when the  
19 alleged perpetrator is a relative or step relative of the child  
20 victim.

21 (9) "Crime victim/witness program" means any crime victim and  
22 witness program of a county or local law enforcement agency or  
23 prosecutor's office, any rape crisis center's sexual assault victim  
24 advocacy program as provided in chapter 70.125 RCW, any domestic  
25 violence program's legal and community advocate program for domestic  
26 violence victims as provided in chapter 70.123 RCW, or any other  
27 crime victim advocacy program which provides trained advocates to  
28 assist crime victims during the investigation and prosecution of the  
29 crime.

30 **Sec. 2.** RCW 7.69A.030 and 2004 c 120 s 9 are each amended to  
31 read as follows:

32 In addition to the rights of victims and witnesses provided for  
33 in RCW 7.69.030, there shall be every reasonable effort made by law  
34 enforcement agencies, prosecutors, and judges to assure that child  
35 victims and witnesses are afforded the rights enumerated in this  
36 section. Except as provided in RCW 7.69A.050 regarding child victims  
37 or child witnesses of violent crimes, sex crimes, or child abuse, the  
38 enumeration of rights shall not be construed to create substantive  
39 rights and duties, and the application of an enumerated right in an

1 individual case is subject to the discretion of the law enforcement  
2 agency, prosecutor, or judge. Child victims and witnesses have the  
3 following rights, which apply to any criminal court and/or juvenile  
4 court proceeding:

5 (1) To have explained in language easily understood by the child,  
6 all legal proceedings and/or police investigations in which the child  
7 may be involved.

8 (2) With respect to child victims of sex or violent crimes or  
9 child abuse, to have a crime victim advocate from a crime victim/  
10 witness program, or any other support person of the victim's  
11 choosing, present at any prosecutorial or defense interviews with the  
12 child victim. This subsection applies if practical and if the  
13 presence of the crime victim advocate or support person does not  
14 cause any unnecessary delay in the investigation or prosecution of  
15 the case. The role of the crime victim advocate is to provide  
16 emotional support to the child victim and to promote the child's  
17 feelings of security and safety.

18 (3) To be provided, whenever possible, a secure waiting area  
19 during court proceedings and to have an advocate or support person  
20 remain with the child prior to and during any court proceedings.

21 (4) To ~~((not have the names, addresses, nor photographs of the))~~  
22 exempt from public disclosure under chapter 42.56 RCW, identifying  
23 information as defined in RCW 7.69A.020, of a living child victim or  
24 witness, and to not have identifying information disclosed by any law  
25 enforcement agency, prosecutor's office, or state agency without the  
26 permission of the child victim, child witness, parents, or legal  
27 guardians to anyone except another law enforcement agency,  
28 prosecutor, defense counsel, or private or governmental agency that  
29 provides services to the child victim or witness.

30 (5) To allow an advocate to make recommendations to the  
31 prosecuting attorney about the ability of the child to cooperate with  
32 prosecution and the potential effect of the proceedings on the child.

33 (6) To allow an advocate to provide information to the court  
34 concerning the child's ability to understand the nature of the  
35 proceedings.

36 (7) To be provided information or appropriate referrals to social  
37 service agencies to assist the child and/or the child's family with  
38 the emotional impact of the crime, the subsequent investigation, and  
39 judicial proceedings in which the child is involved.

1 (8) To allow an advocate to be present in court while the child  
2 testifies in order to provide emotional support to the child.

3 (9) To provide information to the court as to the need for the  
4 presence of other supportive persons at the court proceedings while  
5 the child testifies in order to promote the child's feelings of  
6 security and safety.

7 (10) To allow law enforcement agencies the opportunity to enlist  
8 the assistance of other professional personnel such as child  
9 protection services, victim advocates or prosecutorial staff trained  
10 in the interviewing of the child victim.

11 (11) With respect to child victims of violent or sex crimes or  
12 child abuse, to receive either directly or through the child's parent  
13 or guardian if appropriate, at the time of reporting the crime to law  
14 enforcement officials, a written statement of the rights of child  
15 victims as provided in this chapter. The written statement shall  
16 include the name, address, and telephone number of a county or local  
17 crime victim/witness program, if such a crime victim/witness program  
18 exists in the county.

19 **Sec. 3.** RCW 10.97.130 and 2019 c 300 s 2 are each amended to  
20 read as follows:

21 (1) Information revealing the specific details that describe the  
22 alleged or proven child victim of sexual assault under age eighteen,  
23 or the identity or contact information of an alleged or proven child  
24 victim under age eighteen is confidential and not subject to release  
25 to the press or public without the permission of the child victim and  
26 the child's legal guardian. Identifying information (~~includes the~~  
27 ~~child victim's name, addresses, location, photographs, and in cases~~  
28 ~~in which the child victim is a relative, stepchild, or stepsibling of~~  
29 ~~the alleged perpetrator, identification of the relationship between~~  
30 ~~the child and the alleged perpetrator~~) is defined in RCW 7.69A.020.  
31 Contact information includes phone numbers, email addresses, social  
32 media profiles, and user names and passwords. Contact information or  
33 information identifying the child victim of sexual assault may be  
34 released to law enforcement, prosecutors, judges, defense attorneys,  
35 or private or governmental agencies that provide services to the  
36 child victim of sexual assault. Prior to release of any criminal  
37 history record information, the releasing agency shall delete any  
38 contact information or information identifying a child victim of

1 sexual assault from the information except as provided in this  
2 section.

3 (2) This section does not apply to court documents or other  
4 materials admitted in open judicial proceedings.

5 **Sec. 4.** RCW 13.50.050 and 2014 c 175 s 3 are each amended to  
6 read as follows:

7 (1) This section and RCW 13.50.260 and 13.50.270 govern records  
8 relating to the commission of juvenile offenses, including records  
9 relating to diversions.

10 (2) The official juvenile court file of any alleged or proven  
11 juvenile offender shall be open to public inspection, unless sealed  
12 pursuant to RCW 13.50.260.

13 (3) All records other than the official juvenile court file are  
14 confidential and may be released only as provided in this  
15 chapter((~~7~~)) and RCW 13.40.215 and 4.24.550.

16 (4) Except as otherwise provided in this chapter, records  
17 retained or produced by any juvenile justice or care agency may be  
18 released to other participants in the juvenile justice or care system  
19 only when an investigation or case involving the juvenile in question  
20 is being pursued by the other participant or when that other  
21 participant is assigned the responsibility for supervising the  
22 juvenile.

23 (5) Except as provided in RCW 4.24.550, information not in an  
24 official juvenile court file concerning a juvenile or a juvenile's  
25 family may be released to the public only when that information could  
26 not reasonably be expected to identify the juvenile or the juvenile's  
27 family.

28 (6) Notwithstanding any other provision of this chapter, the  
29 release, to the juvenile or his or her attorney, of law enforcement  
30 and prosecuting attorneys' records pertaining to investigation,  
31 diversion, and prosecution of juvenile offenses shall be governed by  
32 the rules of discovery and other rules of law applicable in adult  
33 criminal investigations and prosecutions.

34 (7) (~~Upon the decision to arrest or the arrest, law enforcement  
35 and prosecuting attorneys may cooperate with schools in releasing  
36 information to a school pertaining to the investigation, diversion,  
37 and prosecution of a juvenile attending the school.~~) Upon the  
38 decision to arrest or the arrest, unredacted incident reports may be  
39 released to a school, unless ((releasing the records would

1 ~~jeopardize))~~ redaction is necessary to avoid jeopardizing the  
2 investigation or prosecution or ~~((endanger))~~ endangering witnesses(~~(-~~  
3 ~~If release of incident reports would jeopardize the investigation or~~  
4 ~~prosecution or endanger witnesses, law enforcement and prosecuting~~  
5 ~~attorneys may release information to the maximum extent possible to~~  
6 ~~assist schools in protecting)), other students, staff, ~~((and))~~ or  
7 school property.~~

8 (8) The juvenile court and the prosecutor may set up and maintain  
9 a central recordkeeping system which may receive information on all  
10 alleged juvenile offenders against whom a complaint has been filed  
11 pursuant to RCW 13.40.070 whether or not their cases are currently  
12 pending before the court. The central recordkeeping system may be  
13 computerized. If a complaint has been referred to a diversion unit,  
14 the diversion unit shall promptly report to the juvenile court or the  
15 prosecuting attorney when the juvenile has agreed to diversion. An  
16 offense shall not be reported as criminal history in any central  
17 recordkeeping system without notification by the diversion unit of  
18 the date on which the offender agreed to diversion.

19 (9) Upon request of the victim of a crime or the victim's  
20 immediate family, ~~((the identity of an alleged or proven juvenile~~  
21 ~~offender alleged or found to have committed a crime against the~~  
22 ~~victim and the identity of the alleged or proven juvenile offender's~~  
23 ~~parent, guardian, or custodian and the circumstance of the alleged or~~  
24 ~~proven crime))~~ incident reports shall be released to the victim of  
25 the crime or the victim's immediate family.

26 (10) Subject to the rules of discovery applicable in adult  
27 criminal prosecutions, the juvenile offense records of an adult  
28 criminal defendant or witness in an adult criminal proceeding shall  
29 be released upon request to prosecution and defense counsel after a  
30 charge has actually been filed. The juvenile offense records of any  
31 adult convicted of a crime and placed under the supervision of the  
32 adult corrections system shall be released upon request to the adult  
33 corrections system.

34 (11) Any juvenile to whom the provisions of this section or RCW  
35 13.50.260 or 13.50.270 may apply shall be given written notice of his  
36 or her rights under this section at the time of his or her  
37 disposition hearing or during the diversion process.

38 (12) Nothing in this section or RCW 13.50.260 or 13.50.270 may be  
39 construed to prevent a crime victim or a member of the victim's

1 family from divulging the identity of the alleged or proven juvenile  
2 offender or his or her family when necessary in a civil proceeding.

3 (13) Except as provided in RCW 13.50.270(2), no identifying  
4 information held by the Washington state patrol in accordance with  
5 chapter 43.43 RCW is subject to destruction or sealing under this  
6 section. For the purposes of this subsection, identifying information  
7 includes photographs, fingerprints, palmprints, soleprints, toeprints  
8 and any other data that identifies a person by physical  
9 characteristics, name, birthdate or address, but does not include  
10 information regarding criminal activity, arrest, charging, diversion,  
11 conviction or other information about a person's treatment by the  
12 criminal justice system or about the person's behavior.

13 (14) Information identifying child victims under age eighteen who  
14 are victims of sexual assaults by juvenile offenders is confidential  
15 and not subject to release to the press or public without the  
16 permission of the child victim or the child's legal guardian.  
17 Identifying information includes the child victim's name, addresses,  
18 location, photographs, and in cases in which the child victim is a  
19 relative of the alleged perpetrator, identification of the  
20 relationship between the child and the alleged perpetrator.  
21 Information identifying a child victim of sexual assault may be  
22 released to law enforcement, prosecutors, judges, defense attorneys,  
23 or private or governmental agencies that provide services to the  
24 child victim of sexual assault.

25 **Sec. 5.** RCW 42.56.230 and 2019 c 470 s 8, 2019 c 239 s 2, and  
26 2019 c 213 s 2 are each reenacted and amended to read as follows:

27 The following personal information is exempt from public  
28 inspection and copying under this chapter:

29 (1) (a) Personal information in any files maintained for students  
30 in public schools, patients or clients of public institutions or  
31 public health agencies, or welfare recipients.

32 (b) Personal information of children under this subsection (1)  
33 may be disclosed if the agency has received written consent for  
34 disclosure from the child's parent or guardian;

35 (2) (a) Personal information:

36 (i) For a child enrolled in licensed child care in any files  
37 maintained by the department of children, youth, and families;

38 (ii) For a child enrolled in a public or nonprofit program  
39 serving or pertaining to children, adolescents, or students,

1 including but not limited to early learning or child care services,  
2 parks and recreation programs, youth development programs, and after-  
3 school programs;

4 (iii) For the family members or guardians of a child who is  
5 subject to the exemption under this subsection (2) if the family  
6 member or guardian has the same last name as the child or if the  
7 family member or guardian resides at the same address as the child  
8 and disclosure of the family member's or guardian's information would  
9 result in disclosure of the personal information exempted under  
10 (a)(i) and (ii) of this subsection; or

11 (iv) For substitute caregivers who are licensed or approved to  
12 provide overnight care of children by the department of children,  
13 youth, and families.

14 (b) Emergency contact information under this subsection (2) may  
15 be provided to appropriate authorities and medical personnel for the  
16 purpose of treating the individual during an emergency situation.

17 (c) Personal information of children under this subsection (2)  
18 may be disclosed if the agency has received written consent for  
19 disclosure from the child's parent or guardian;

20 (3) Personal information in files maintained for employees,  
21 appointees, or elected officials of any public agency to the extent  
22 that disclosure would violate their right to privacy;

23 (4) Information required of any taxpayer in connection with the  
24 assessment or collection of any tax if the disclosure of the  
25 information to other persons would: (a) Be prohibited to such persons  
26 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance  
27 authorized under RCW 35.102.145; or (b) violate the taxpayer's right  
28 to privacy or result in unfair competitive disadvantage to the  
29 taxpayer;

30 (5) Credit card numbers, debit card numbers, electronic check  
31 numbers, card expiration dates, or bank or other financial  
32 information as defined in RCW 9.35.005 including social security  
33 numbers, except when disclosure is expressly required by or governed  
34 by other law;

35 (6) Personal and financial information related to a small loan or  
36 any system of authorizing a small loan in RCW 31.45.093;

37 (7)(a) Any record used to prove identity, age, residential  
38 address, social security number, or other personal information  
39 required to apply for a driver's license or identicard.



1 (b) Information provided under RCW 46.20.111 that indicates that  
2 an applicant declined to register with the selective service system.

3 (c) Any record pertaining to a vehicle license plate, driver's  
4 license, or identicard issued under RCW 46.08.066 that, alone or in  
5 combination with any other records, may reveal the identity of an  
6 individual, or reveal that an individual is or was, performing an  
7 undercover or covert law enforcement, confidential public health  
8 work, public assistance fraud, or child support investigative  
9 activity. This exemption does not prevent the release of the total  
10 number of vehicle license plates, drivers' licenses, or identicards  
11 that, under RCW 46.08.066, an agency or department has applied for,  
12 been issued, denied, returned, destroyed, lost, and reported for  
13 misuse.

14 (d) Any record pertaining to a vessel registration issued under  
15 RCW 88.02.330 that, alone or in combination with any other records,  
16 may reveal the identity of an individual, or reveal that an  
17 individual is or was, performing an undercover or covert law  
18 enforcement activity. This exemption does not prevent the release of  
19 the total number of vessel registrations that, under RCW 88.02.330,  
20 an agency or department has applied for, been issued, denied,  
21 returned, destroyed, lost, and reported for misuse;

22 (8) All information related to individual claims resolution  
23 structured settlement agreements submitted to the board of industrial  
24 insurance appeals under RCW 51.04.063, other than final orders from  
25 the board of industrial insurance appeals.

26 Upon request by the legislature, the department of licensing  
27 shall provide a report to the legislature containing all of the  
28 information in subsection (7)(c) and (d) of this section that is  
29 subject to public disclosure;

30 (9) Voluntarily submitted information contained in a database  
31 that is part of or associated with enhanced 911 emergency  
32 communications systems, or information contained or used in emergency  
33 notification systems as provided under RCW 38.52.575 and 38.52.577;

34 (10) Until the person reaches eighteen years of age, information,  
35 otherwise disclosable under chapter 29A.08 RCW, that relates to a  
36 future voter, except for the purpose of processing and delivering  
37 ballots;

38 (11) All information submitted by a person to the state, either  
39 directly or through a state-licensed gambling establishment, or  
40 Indian tribes, or tribal enterprises that own gambling operations or

1 facilities with class III gaming compacts, as part of the self-  
2 exclusion program established in RCW 9.46.071 or 67.70.040 for people  
3 with a gambling problem or gambling disorder; and

4 (12) Names, addresses, or other personal information of  
5 individuals who participated in the bump-fire stock buy-back program  
6 under RCW 43.43.920.

7 **Sec. 6.** RCW 42.56.240 and 2019 c 300 s 1 are each amended to  
8 read as follows:

9 The following investigative, law enforcement, and crime victim  
10 information is exempt from public inspection and copying under this  
11 chapter:

12 (1) ~~((Specific))~~ (a) Except as provided in (b) of this  
13 subsection, specific intelligence information and specific  
14 investigative records compiled by investigative, law enforcement, and  
15 penology agencies, and state agencies vested with the responsibility  
16 to discipline members of any profession, the nondisclosure of which  
17 is essential to effective law enforcement or for the protection of  
18 any person's right to privacy;

19 (b) For the department of children, youth, and families, records  
20 regarding an on-going child protective services investigation in  
21 conjunction with an early learning licensing complaint inspection,  
22 the records must remain exempt during the course of the child  
23 protective services investigation. At the conclusion of the child  
24 protective services investigation, all responsive records must be  
25 made available to the public when requested;

26 (2) Information revealing the identity of persons who are  
27 witnesses to or victims of crime or who file complaints with  
28 investigative, law enforcement, or penology agencies, other than the  
29 commission, if disclosure would endanger any person's life, physical  
30 safety, or property. If at the time a complaint is filed the  
31 complainant, victim, or witness indicates a desire for disclosure or  
32 nondisclosure, such desire shall govern. However, all complaints  
33 filed with the commission about any elected official or candidate for  
34 public office must be made in writing and signed by the complainant  
35 under oath;

36 (3) Any records of investigative reports prepared by any state,  
37 county, municipal, or other law enforcement agency pertaining to sex  
38 offenses contained in chapter 9A.44 RCW or sexually violent offenses  
39 as defined in RCW 71.09.020, which have been transferred to the

1 Washington association of sheriffs and police chiefs for permanent  
2 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

3 (4) License applications under RCW 9.41.070; copies of license  
4 applications or information on the applications may be released to  
5 law enforcement or corrections agencies;

6 (5) Identifying information (~~((revealing the specific details that~~  
7 ~~describe an alleged or proven child victim of sexual assault under~~  
8 ~~age eighteen, or the identity or contact information of an alleged or~~  
9 ~~proven child victim of sexual assault who is under age eighteen.~~  
10 ~~Identifying information includes the child victim's name, addresses,~~  
11 ~~location, photograph, and in cases in which the child victim is a~~  
12 ~~relative, stepchild, or stepsibling of the alleged perpetrator,~~  
13 ~~identification of the relationship between the child and the alleged~~  
14 ~~perpetrator. Contact information includes phone numbers, email~~  
15 ~~addresses, social media profiles, and usernames and passwords)), as  
16 defined in RCW 7.69A.020, of child victims and witnesses;~~

17 (6) Information contained in a local or regionally maintained  
18 gang database as well as the statewide gang database referenced in  
19 RCW 43.43.762;

20 (7) Data from the electronic sales tracking system established in  
21 RCW 69.43.165;

22 (8) Information submitted to the statewide unified sex offender  
23 notification and registration program under RCW 36.28A.040(6) by a  
24 person for the purpose of receiving notification regarding a  
25 registered sex offender, including the person's name, residential  
26 address, and email address;

27 (9) Personally identifying information collected by law  
28 enforcement agencies pursuant to local security alarm system programs  
29 and vacation crime watch programs. Nothing in this subsection shall  
30 be interpreted so as to prohibit the legal owner of a residence or  
31 business from accessing information regarding his or her residence or  
32 business;

33 (10) The felony firearm offense conviction database of felony  
34 firearm offenders established in RCW 43.43.822;

35 (11) The identity of a state employee or officer who has in good  
36 faith filed a complaint with an ethics board, as provided in RCW  
37 42.52.410, or who has in good faith reported improper governmental  
38 action, as defined in RCW 42.40.020, to the auditor or other public  
39 official, as defined in RCW 42.40.020;

1 (12) The following security threat group information collected  
2 and maintained by the department of corrections pursuant to RCW  
3 72.09.745: (a) Information that could lead to the identification of a  
4 person's security threat group status, affiliation, or activities;  
5 (b) information that reveals specific security threats associated  
6 with the operation and activities of security threat groups; and (c)  
7 information that identifies the number of security threat group  
8 members, affiliates, or associates;

9 (13) The global positioning system data that would indicate the  
10 location of the residence of an employee or worker of a criminal  
11 justice agency as defined in RCW 10.97.030;

12 (14) Body worn camera recordings to the extent nondisclosure is  
13 essential for the protection of any person's right to privacy as  
14 described in RCW 42.56.050, including, but not limited to, the  
15 circumstances enumerated in (a) of this subsection. A law enforcement  
16 or corrections agency shall not disclose a body worn camera recording  
17 to the extent the recording is exempt under this subsection.

18 (a) Disclosure of a body worn camera recording is presumed to be  
19 highly offensive to a reasonable person under RCW 42.56.050 to the  
20 extent it depicts:

21 (i)(A) Any areas of a medical facility, counseling, or  
22 therapeutic program office where:

23 (I) A patient is registered to receive treatment, receiving  
24 treatment, waiting for treatment, or being transported in the course  
25 of treatment; or

26 (II) Health care information is shared with patients, their  
27 families, or among the care team; or

28 (B) Information that meets the definition of protected health  
29 information for purposes of the health insurance portability and  
30 accountability act of 1996 or health care information for purposes of  
31 chapter 70.02 RCW;

32 (ii) The interior of a place of residence where a person has a  
33 reasonable expectation of privacy;

34 (iii) An intimate image;

35 (iv) A minor;

36 (v) The body of a deceased person;

37 (vi) The identity of or communications from a victim or witness  
38 of an incident involving domestic violence as defined in RCW  
39 10.99.020 or sexual assault as defined in RCW 70.125.030, or  
40 disclosure of intimate images as defined in RCW 9A.86.010. If at the

1 time of recording the victim or witness indicates a desire for  
2 disclosure or nondisclosure of the recorded identity or  
3 communications, such desire shall govern; or

4 (vii) The identifiable location information of a community-based  
5 domestic violence program as defined in RCW 70.123.020, or emergency  
6 shelter as defined in RCW 70.123.020.

7 (b) The presumptions set out in (a) of this subsection may be  
8 rebutted by specific evidence in individual cases.

9 (c) In a court action seeking the right to inspect or copy a body  
10 worn camera recording, a person who prevails against a law  
11 enforcement or corrections agency that withholds or discloses all or  
12 part of a body worn camera recording pursuant to (a) of this  
13 subsection is not entitled to fees, costs, or awards pursuant to RCW  
14 42.56.550 unless it is shown that the law enforcement or corrections  
15 agency acted in bad faith or with gross negligence.

16 (d) A request for body worn camera recordings must:

17 (i) Specifically identify a name of a person or persons involved  
18 in the incident;

19 (ii) Provide the incident or case number;

20 (iii) Provide the date, time, and location of the incident or  
21 incidents; or

22 (iv) Identify a law enforcement or corrections officer involved  
23 in the incident or incidents.

24 (e)(i) A person directly involved in an incident recorded by the  
25 requested body worn camera recording, an attorney representing a  
26 person directly involved in an incident recorded by the requested  
27 body worn camera recording, a person or his or her attorney who  
28 requests a body worn camera recording relevant to a criminal case  
29 involving that person, or the executive director from either the  
30 Washington state commission on African American affairs, Asian  
31 Pacific American affairs, or Hispanic affairs, has the right to  
32 obtain the body worn camera recording, subject to any exemption under  
33 this chapter or any applicable law. In addition, an attorney who  
34 represents a person regarding a potential or existing civil cause of  
35 action involving the denial of civil rights under the federal or  
36 state Constitution, or a violation of a United States department of  
37 justice settlement agreement, has the right to obtain the body worn  
38 camera recording if relevant to the cause of action, subject to any  
39 exemption under this chapter or any applicable law. The attorney must  
40 explain the relevancy of the requested body worn camera recording to

1 the cause of action and specify that he or she is seeking relief from  
2 redaction costs under this subsection (14) (e).

3 (ii) A law enforcement or corrections agency responding to  
4 requests under this subsection (14) (e) may not require the requesting  
5 individual to pay costs of any redacting, altering, distorting,  
6 pixelating, suppressing, or otherwise obscuring any portion of a body  
7 worn camera recording.

8 (iii) A law enforcement or corrections agency may require any  
9 person requesting a body worn camera recording pursuant to this  
10 subsection (14) (e) to identify himself or herself to ensure he or she  
11 is a person entitled to obtain the body worn camera recording under  
12 this subsection (14) (e).

13 (f) (i) A law enforcement or corrections agency responding to a  
14 request to disclose body worn camera recordings may require any  
15 requester not listed in (e) of this subsection to pay the reasonable  
16 costs of redacting, altering, distorting, pixelating, suppressing, or  
17 otherwise obscuring any portion of the body worn camera recording  
18 prior to disclosure only to the extent necessary to comply with the  
19 exemptions in this chapter or any applicable law.

20 (ii) An agency that charges redaction costs under this subsection  
21 (14) (f) must use redaction technology that provides the least costly  
22 commercially available method of redacting body worn camera  
23 recordings, to the extent possible and reasonable.

24 (iii) In any case where an agency charges a requestor for the  
25 costs of redacting a body worn camera recording under this subsection  
26 (14) (f), the time spent on redaction of the recording shall not count  
27 towards the agency's allocation of, or limitation on, time or costs  
28 spent responding to public records requests under this chapter, as  
29 established pursuant to local ordinance, policy, procedure, or state  
30 law.

31 (g) For purposes of this subsection (14):

32 (i) "Body worn camera recording" means a video and/or sound  
33 recording that is made by a body worn camera attached to the uniform  
34 or eyewear of a law enforcement or corrections officer while in the  
35 course of his or her official duties; and

36 (ii) "Intimate image" means an individual or individuals engaged  
37 in sexual activity, including sexual intercourse as defined in RCW  
38 9A.44.010 and masturbation, or an individual's intimate body parts,  
39 whether nude or visible through less than opaque clothing, including  
40 the genitals, pubic area, anus, or postpubescent female nipple.

1 (h) Nothing in this subsection shall be construed to restrict  
2 access to body worn camera recordings as otherwise permitted by law  
3 for official or recognized civilian and accountability bodies or  
4 pursuant to any court order.

5 (i) Nothing in this section is intended to modify the obligations  
6 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,  
7 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*  
8 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and  
9 the relevant Washington court criminal rules and statutes.

10 (j) A law enforcement or corrections agency must retain body worn  
11 camera recordings for at least sixty days and thereafter may destroy  
12 the records in accordance with the applicable records retention  
13 schedule;

14 (15) Any records and information contained within the statewide  
15 sexual assault kit tracking system established in RCW 43.43.545;

16 (16)(a) Survivor communications with, and survivor records  
17 maintained by, campus-affiliated advocates.

18 (b) Nothing in this subsection shall be construed to restrict  
19 access to records maintained by a campus-affiliated advocate in the  
20 event that:

21 (i) The survivor consents to inspection or copying;

22 (ii) There is a clear, imminent risk of serious physical injury  
23 or death of the survivor or another person;

24 (iii) Inspection or copying is required by federal law; or

25 (iv) A court of competent jurisdiction mandates that the record  
26 be available for inspection or copying.

27 (c) "Campus-affiliated advocate" and "survivor" have the  
28 definitions in RCW 28B.112.030;

29 (17) Information and records prepared, owned, used, or retained  
30 by the Washington association of sheriffs and police chiefs and  
31 information and records prepared, owned, used, or retained by the  
32 Washington state patrol pursuant to chapter 261, Laws of 2017; and

33 (18) Any and all audio or video recordings of child forensic  
34 interviews as defined in chapter 26.44 RCW. Such recordings are  
35 confidential and may only be disclosed pursuant to a court order  
36 entered upon a showing of good cause and with advance notice to the  
37 child's parent, guardian, or legal custodian. However, if the child  
38 is an emancipated minor or has attained the age of majority as  
39 defined in RCW 26.28.010, advance notice must be to the child.  
40 Failure to disclose an audio or video recording of a child forensic

1 interview as defined in chapter 26.44 RCW is not grounds for  
2 penalties or other sanctions available under this chapter.

--- **END** ---