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**SENATE BILL 5776**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Trudeau, Dhingra, Das, Hasegawa, Keiser, Lovelett, Lovick, Nguyen, Nobles, Randall, Saldaña, and C. Wilson

Read first time 01/11/22. Referred to Committee on Law & Justice.

1 AN ACT Relating to creating the criminal justice integrated data  
2 system and a violence and death investigation resource center;  
3 amending RCW 42.56.240 and 43.103.040; adding a new section to  
4 chapter 43.70 RCW; and adding a new chapter to Title 10 RCW.

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

6 NEW SECTION. **Sec. 1.** There is a need to dramatically improve  
7 data collection surrounding violence, domestic violence, and deaths  
8 in the state of Washington. Justice agencies in the state, including  
9 courts, law enforcement, corrections, and prosecutors, possess a  
10 wealth of data relating to the public health of Washington citizens.  
11 A centralized data repository will create data linkages between legal  
12 and public health data sets. These linkages will promote a public  
13 health response to violent crime and deaths, and give the legislature  
14 valuable tools in formulating public policy surrounding these  
15 important issues.

16 NEW SECTION. **Sec. 2.** This chapter may be known and cited as the  
17 criminal justice integrated data system act.

18 NEW SECTION. **Sec. 3.** (1) There is hereby created the criminal  
19 justice integrated data system to receive, store, secure, and

1 maintain data and information from local governments, state agencies  
2 and departments, or volunteer nongovernmental entities.

3 (2) The data system shall be managed by the department of health,  
4 which may:

5 (a) Require contributing local governments, state agencies and  
6 departments, or volunteer nongovernmental entities to deliver data  
7 and information in a certain format and on schedules established for  
8 the criminal justice integrated data system; and

9 (b) Enter into or adopt a memorandum of understanding with each  
10 contributing local government, state agency and department, or  
11 volunteer nongovernmental entity. Such memorandum must identify the  
12 confidentiality of the information and any conditions or restrictions  
13 on the use of the data or information.

14 (3) The records and data collected and stored by the criminal  
15 justice integrated data system shall be exempt from disclosure as  
16 provided in RCW 42.56.240. The confidentiality of all records and  
17 data collected by the criminal justice integrated data system shall  
18 comply with applicable state and federal laws governing the privacy  
19 of records, data, and personal identifiable information.

20 NEW SECTION. **Sec. 4.** (1) There is hereby created the data  
21 oversight council, to be convened and chaired by the department of  
22 health. All requests for projects, reports, and data analyses  
23 generated from the criminal justice integrated data system must be  
24 approved by the data oversight council.

25 (2) In addition to the chair, the data oversight council shall  
26 consist of the following members or the member's designee:

27 (a) The governor;

28 (b) The chief justice of the Washington state supreme court;

29 (c) The attorney general;

30 (d) The director of the department of corrections;

31 (e) The director of the department of children, youth, and  
32 families;

33 (f) The director of the department of social and health services;

34 (g) The director of the administrative office of the courts;

35 (h) A representative of the Washington association of prosecuting  
36 attorneys;

37 (i) A representative of the Washington association of sheriffs  
38 and police chiefs;

39 (j) A representative of the association of Washington cities;

1 (k) A representative of the Washington state association of  
2 counties;

3 (l) A representative of the office of crime victims advocacy;

4 (m) A representative from the Washington state institute for  
5 public policy;

6 (n) A representative from the office of public defense or a  
7 defense representative; and

8 (o) A representative from the Harborview injury prevention and  
9 research center.

10 (3) Members of the data oversight council shall serve without any  
11 additional compensation. All meetings of the council shall be held in  
12 compliance with the open public meetings act as provided in chapter  
13 42.30 RCW.

14 (4) Any projects, reports, or data analyses in final form  
15 produced by persons authorized to conduct research and analyses under  
16 this chapter shall belong to the local government, state agency and  
17 department, or volunteer nongovernmental entity that requests or  
18 creates the report.

19 (5) The contributing local governments, state agencies and  
20 departments, or volunteer nongovernmental entities shall have  
21 priority in requesting any projects, reports, or data analyses to be  
22 produced by persons authorized by the data oversight council. The  
23 data oversight council may, in its discretion, deny any requested  
24 project, report, or data analysis where it determines the request is  
25 unduly burdensome, voluminous, or cost-prohibitive.

26 (6) Members of the data oversight council and all contributing  
27 local governments, state agencies and departments, or volunteer  
28 nongovernmental entities shall be immune from liability to any person  
29 or entity for any invasion of the right to privacy or use of records  
30 or data generated by the criminal justice integrated data system.

31 (7) In collaboration with contributing local governments, state  
32 agencies and departments, or volunteer nongovernmental entities and  
33 the data oversight council, the department of health may establish  
34 policies addressing the creation of reports generated through the  
35 query of records and data possessed by the criminal justice  
36 integrated data system.

37 **Sec. 5.** RCW 42.56.240 and 2019 c 300 s 1 are each amended to  
38 read as follows:

1 The following investigative, law enforcement, and crime victim  
2 information is exempt from public inspection and copying under this  
3 chapter:

4 (1) Specific intelligence information and specific investigative  
5 records compiled by investigative, law enforcement, and penology  
6 agencies, and state agencies vested with the responsibility to  
7 discipline members of any profession, the nondisclosure of which is  
8 essential to effective law enforcement or for the protection of any  
9 person's right to privacy;

10 (2) Information revealing the identity of persons who are  
11 witnesses to or victims of crime or who file complaints with  
12 investigative, law enforcement, or penology agencies, other than the  
13 commission, if disclosure would endanger any person's life, physical  
14 safety, or property. If at the time a complaint is filed the  
15 complainant, victim, or witness indicates a desire for disclosure or  
16 nondisclosure, such desire shall govern. However, all complaints  
17 filed with the commission about any elected official or candidate for  
18 public office must be made in writing and signed by the complainant  
19 under oath;

20 (3) Any records of investigative reports prepared by any state,  
21 county, municipal, or other law enforcement agency pertaining to sex  
22 offenses contained in chapter 9A.44 RCW or sexually violent offenses  
23 as defined in RCW 71.09.020, which have been transferred to the  
24 Washington association of sheriffs and police chiefs for permanent  
25 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

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

29 (5) Information revealing the specific details that describe an  
30 alleged or proven child victim of sexual assault under age  
31 (~~eighteen~~) 18, or the identity or contact information of an alleged  
32 or proven child victim of sexual assault who is under age  
33 (~~eighteen~~) 18. Identifying information includes the child victim's  
34 name, addresses, location, photograph, and in cases in which the  
35 child victim is a relative, stepchild, or stepsibling of the alleged  
36 perpetrator, identification of the relationship between the child and  
37 the alleged perpetrator. Contact information includes phone numbers,  
38 email addresses, social media profiles, and user names and passwords;

1 (6) Information contained in a local or regionally maintained  
2 gang database as well as the statewide gang database referenced in  
3 RCW 43.43.762;

4 (7) Data from the electronic sales tracking system established in  
5 RCW 69.43.165;

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

11 (9) Personally identifying information collected by law  
12 enforcement agencies pursuant to local security alarm system programs  
13 and vacation crime watch programs. Nothing in this subsection shall  
14 be interpreted so as to prohibit the legal owner of a residence or  
15 business from accessing information regarding his or her residence or  
16 business;

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

19 (11) The identity of a state employee or officer who has in good  
20 faith filed a complaint with an ethics board, as provided in RCW  
21 42.52.410, or who has in good faith reported improper governmental  
22 action, as defined in RCW 42.40.020, to the auditor or other public  
23 official, as defined in RCW 42.40.020;

24 (12) The following security threat group information collected  
25 and maintained by the department of corrections pursuant to RCW  
26 72.09.745: (a) Information that could lead to the identification of a  
27 person's security threat group status, affiliation, or activities;  
28 (b) information that reveals specific security threats associated  
29 with the operation and activities of security threat groups; and (c)  
30 information that identifies the number of security threat group  
31 members, affiliates, or associates;

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

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

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

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

6 (I) A patient is registered to receive treatment, receiving  
7 treatment, waiting for treatment, or being transported in the course  
8 of treatment; or

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

11 (B) Information that meets the definition of protected health  
12 information for purposes of the health insurance portability and  
13 accountability act of 1996 or health care information for purposes of  
14 chapter 70.02 RCW;

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

17 (iii) An intimate image;

18 (iv) A minor;

19 (v) The body of a deceased person;

20 (vi) The identity of or communications from a victim or witness  
21 of an incident involving domestic violence as defined in RCW  
22 10.99.020 or sexual assault as defined in RCW 70.125.030, or  
23 disclosure of intimate images as defined in RCW 9A.86.010. If at the  
24 time of recording the victim or witness indicates a desire for  
25 disclosure or nondisclosure of the recorded identity or  
26 communications, such desire shall govern; or

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

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

32 (c) In a court action seeking the right to inspect or copy a body  
33 worn camera recording, a person who prevails against a law  
34 enforcement or corrections agency that withholds or discloses all or  
35 part of a body worn camera recording pursuant to (a) of this  
36 subsection is not entitled to fees, costs, or awards pursuant to RCW  
37 42.56.550 unless it is shown that the law enforcement or corrections  
38 agency acted in bad faith or with gross negligence.

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

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

3 (ii) Provide the incident or case number;

4 (iii) Provide the date, time, and location of the incident or  
5 incidents; or

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

8 (e)(i) A person directly involved in an incident recorded by the  
9 requested body worn camera recording, an attorney representing a  
10 person directly involved in an incident recorded by the requested  
11 body worn camera recording, a person or his or her attorney who  
12 requests a body worn camera recording relevant to a criminal case  
13 involving that person, or the executive director from either the  
14 Washington state commission on African American affairs, Asian  
15 Pacific American affairs, or Hispanic affairs, has the right to  
16 obtain the body worn camera recording, subject to any exemption under  
17 this chapter or any applicable law. In addition, an attorney who  
18 represents a person regarding a potential or existing civil cause of  
19 action involving the denial of civil rights under the federal or  
20 state Constitution, or a violation of a United States department of  
21 justice settlement agreement, has the right to obtain the body worn  
22 camera recording if relevant to the cause of action, subject to any  
23 exemption under this chapter or any applicable law. The attorney must  
24 explain the relevancy of the requested body worn camera recording to  
25 the cause of action and specify that he or she is seeking relief from  
26 redaction costs under this subsection (14)(e).

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

32 (iii) A law enforcement or corrections agency may require any  
33 person requesting a body worn camera recording pursuant to this  
34 subsection (14)(e) to identify himself or herself to ensure he or she  
35 is a person entitled to obtain the body worn camera recording under  
36 this subsection (14)(e).

37 (f)(i) A law enforcement or corrections agency responding to a  
38 request to disclose body worn camera recordings may require any  
39 requester not listed in (e) of this subsection to pay the reasonable  
40 costs of redacting, altering, distorting, pixelating, suppressing, or

1 otherwise obscuring any portion of the body worn camera recording  
2 prior to disclosure only to the extent necessary to comply with the  
3 exemptions in this chapter or any applicable law.

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

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

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

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

20 (ii) "Intimate image" means an individual or individuals engaged  
21 in sexual activity, including sexual intercourse as defined in RCW  
22 9A.44.010 and masturbation, or an individual's intimate body parts,  
23 whether nude or visible through less than opaque clothing, including  
24 the genitals, pubic area, anus, or postpubescent female nipple.

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

29 (i) Nothing in this section is intended to modify the obligations  
30 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,  
31 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*  
32 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and  
33 the relevant Washington court criminal rules and statutes.

34 (j) A law enforcement or corrections agency must retain body worn  
35 camera recordings for at least (~~sixty~~) 60 days and thereafter may  
36 destroy the records in accordance with the applicable records  
37 retention schedule;

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



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

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

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

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

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

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

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

14 (17) Information and records prepared, owned, used, or retained  
15 by the Washington association of sheriffs and police chiefs and  
16 information and records prepared, owned, used, or retained by the  
17 Washington state patrol pursuant to chapter 261, Laws of 2017;  
18 ((and))

19 (18) Any and all audio or video recordings of child forensic  
20 interviews as defined in chapter 26.44 RCW. Such recordings are  
21 confidential and may only be disclosed pursuant to a court order  
22 entered upon a showing of good cause and with advance notice to the  
23 child's parent, guardian, or legal custodian. However, if the child  
24 is an emancipated minor or has attained the age of majority as  
25 defined in RCW 26.28.010, advance notice must be to the child.  
26 Failure to disclose an audio or video recording of a child forensic  
27 interview as defined in chapter 26.44 RCW is not grounds for  
28 penalties or other sanctions available under this chapter; and

29 (19) Records and information received by the department of health  
30 from any local government, state agency and department, or volunteer  
31 nongovernmental entity for purposes of entry into the criminal  
32 justice integrated data system pursuant to section 3 of this act and  
33 all records created by persons authorized to research and analyze  
34 information entered into the criminal justice integrated data system,  
35 regardless of whether such records were previously exempted from  
36 disclosure or redacted pursuant to state or federal law or court  
37 order. This exemption does not apply to projects, reports, and data  
38 analyses approved for release by the data oversight council and  
39 issued by persons authorized to conduct research and analyses as set  
40 forth in section 4 of this act. Records and information relating to

1 the management of the criminal justice integrated data system shall  
2 not be exempt from disclosure except as otherwise provided by law.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70  
4 RCW to read as follows:

5 (1) The violence and death investigation resource center is  
6 established within the department. The resource center shall:

7 (a) Collect and analyze vital statistics on violence and deaths  
8 in the state to identify localized and statewide trends;

9 (b) Survey medical examiners and coroners in the state to  
10 identify the critical needs of the offices;

11 (c) Develop systems to facilitate information and data sharing  
12 between medical examiner and coroner offices; and

13 (d) Develop best practices for death investigation in the state.

14 (2) A forensic pathologist must serve as the director of the  
15 resource center.

16 (3) The resource center staff must include a data manager, and  
17 the department shall provide additional staff support as needed.

18 (4) The director of the resource center shall serve as a member  
19 of the Washington state forensic investigations council, established  
20 under chapter 43.103 RCW.

21 (5) The resource center shall submit an annual report to the  
22 legislature detailing the center's work, including trends in violence  
23 and deaths from the previous year, and providing recommendations to  
24 support medical examiner and coroner offices and improve death  
25 investigations in the state.

26 (6) The department may adopt any rules necessary to implement  
27 this section.

28 **Sec. 7.** RCW 43.103.040 and 2010 c 143 s 1 are each amended to  
29 read as follows:

30 The council shall consist of (~~thirteen~~) 14 members who shall be  
31 selected as follows: One county coroner; one county prosecutor; one  
32 county prosecutor who also serves as ex officio county coroner; one  
33 county medical examiner; one county sheriff; one chief of police; the  
34 chief of the state patrol; two members of a county legislative  
35 authority; one pathologist who is currently in private practice; two  
36 members of a city legislative authority; the director of the violence  
37 and death investigation resource center established in section 6 of

1 this act; and one attorney whose practice of law includes significant  
2 experience representing clients charged with criminal offenses.

3 The governor shall appoint members to the council from among the  
4 nominees submitted for each position as follows: The Washington  
5 association of county officials shall submit two nominees each for  
6 the coroner position and the medical examiner position; the  
7 Washington state association of counties shall submit two nominees  
8 each for the two county legislative authority positions; the  
9 association of Washington cities shall submit two nominees each for  
10 the two city legislative authority positions; the Washington  
11 association of prosecuting attorneys shall submit two nominees each  
12 for the county prosecutor-ex officio county coroner and for the  
13 county prosecutor position; the Washington association of sheriffs  
14 and police chiefs shall submit two nominees each for the county  
15 sheriff position and the chief of police position; the Washington  
16 association of pathologists shall submit two nominees for the private  
17 pathologist position; the department of health shall submit one  
18 nominee for the director of the violence and death investigation  
19 resource center position; and the Washington association of criminal  
20 defense lawyers and the Washington defender association shall jointly  
21 submit two nominees for the criminal defense attorney position, one  
22 of whom must actively manage or have significant experience in  
23 managing a public or private criminal defense agency or association,  
24 the other must have experience in cases involving DNA or other  
25 forensic evidence.

26 NEW SECTION. **Sec. 8.** Sections 1 through 4 of this act  
27 constitute a new chapter in Title 10 RCW.

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