
SUBSTITUTE HOUSE BILL 1028

State of Washington

68th Legislature

2023 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representatives Orwall, Mosbrucker, Ryu, Simmons, Goodman, Reed, Lekanoff, Pollet, Callan, Doglio, Macri, Caldier, Reeves, Wylie, Gregerson, Davis, Ormsby, and Fosse)

READ FIRST TIME 01/23/23.

1 AN ACT Relating to supporting crime victims and witnesses by
2 promoting victim-centered, trauma-informed responses in the legal
3 system; amending RCW 5.70.040, 5.70.050, 9A.04.080, 43.101.272,
4 43.101.276, 43.101.278, 7.68.170, 43.43.545, 7.68.380, 43.185C.260,
5 and 7.69.030; adding a new section to chapter 43.10 RCW; adding new
6 sections to chapter 43.101 RCW; adding a new section to chapter 70.02
7 RCW; adding a new section to chapter 7.68 RCW; creating a new
8 section; repealing RCW 43.101.270; providing an effective date; and
9 providing expiration dates.

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

11 **PART I**

12 **INVESTIGATIONS AND PROSECUTIONS OF SEXUAL ASSAULT CASES**

13 NEW SECTION. **Sec. 1.** The legislature recognizes that sexual
14 assault is a devastating crime affecting thousands of Washingtonians.
15 For this reason, the state has engaged in a multiyear effort to
16 implement victim-centered and trauma-informed practices for
17 responding to sexual assault across the criminal justice system. With
18 the support of state funding and the sexual assault kit initiative,
19 the Washington state crime laboratory has conducted the testing of
20 over 10,000 previously unsubmitted sexual assault kits, and has

1 expanded testing capacity to ensure all sexual assault kits will be
2 tested within 45 days of submission going forward. Yet testing alone
3 is not enough.

4 Each report of sexual assault should be investigated at the local
5 level, regardless of the status of any sexual assault kit. All sexual
6 assault survivors deserve to be treated with respect and dignity,
7 including through a trauma-informed, good-faith investigation of
8 every report of sexual assault. Further, thorough and professional
9 investigations are imperative for public safety. Recent research
10 demonstrates that the majority of perpetrators commit multiple
11 assaults over their lifetime. Despite this, perpetrators often evade
12 accountability and prosecution. This needs to change. By improving
13 forensic testing, conducting thorough investigations of each report,
14 and implementing best practices for all practitioners, the state can
15 successfully bring perpetrators to justice and prevent further
16 victimization. Therefore, the legislature intends to expand efforts
17 to improve investigations and prosecutions by requiring timely
18 investigations of sexual assault cases with CODIS hits, and requiring
19 regular reporting on the status of those cases. Access to these
20 reports will provide policymakers and practitioners with critical
21 insights as implementation continues with broader reform efforts.

22 **Sec. 2.** RCW 5.70.040 and 2020 c 26 s 4 are each amended to read
23 as follows:

24 (1) When a law enforcement agency receives a sexual assault kit,
25 the law enforcement agency must, within thirty days of its receipt,
26 submit a request for laboratory examination to the Washington state
27 patrol crime laboratory for prioritization for testing by it or
28 another accredited laboratory that holds an outsourcing agreement
29 with the Washington state patrol if:

30 (a) The law enforcement agency has received a related report or
31 complaint alleging a sexual assault or other crime has occurred; and

32 (b) (i) Consent for laboratory examination has been given by the
33 victim; or

34 (ii) The victim is a person under the age of eighteen who is not
35 emancipated pursuant to chapter 13.64 RCW.

36 (2) Beginning May 1, 2022, when the Washington state patrol
37 receives a request for laboratory examination of a sexual assault kit
38 from a law enforcement agency, the Washington state patrol shall
39 conduct the laboratory examination of the sexual assault kit, and

1 when appropriate, enter relevant information into the combined DNA
2 index system, within forty-five days of receipt of the request. The
3 Washington state patrol crime laboratory must give priority to the
4 laboratory examination of sexual assault kits at the request of a
5 local law enforcement agency for:

6 (a) Active investigations and cases with impending court dates;

7 (b) Active investigations where public safety is an immediate
8 concern;

9 (c) Violent crimes investigations, including active sexual
10 assault investigations;

11 (d) Postconviction cases; and

12 (e) Other crimes' investigations and nonactive investigations,
13 such as previously unsubmitted older sexual assault kits or recently
14 collected sexual assault kits that the submitting agency has
15 determined to be lower priority based on their initial investigation.

16 (3) The requirements to request and complete laboratory
17 examination of sexual assault kits under subsections (1) and (2) of
18 this section do not include forensic toxicological analysis. However,
19 nothing in this section limits or modifies the authority of a law
20 enforcement agency to request toxicological analysis of evidence
21 collected in a sexual assault kit.

22 (4) When forensic analysis of a sexual assault kit submitted
23 under this section generates a profile resulting in a hit in the
24 combined DNA index system, the applicable law enforcement agency
25 shall, within 90 days of receiving the results of the forensic
26 analysis, initiate a criminal investigation of any report connected
27 to the sexual assault kit or document why the investigation could not
28 be initiated, unless the investigation has already been initiated.

29 (5) The failure of a law enforcement agency (~~to submit a request~~
30 ~~for laboratory examination,~~) or the (~~failure of the~~) Washington
31 state patrol to (~~facilitate laboratory examination,~~) complete the
32 requirements under this section within the time periods prescribed
33 under this section does not constitute grounds in any criminal
34 proceeding for challenging the validity of a DNA evidence
35 association, and any evidence obtained from the sexual assault kit
36 may not be excluded by a court on those grounds.

37 ~~((+5))~~ (6) A person accused or convicted of committing a crime
38 against a victim has no standing to object to any failure to comply
39 with the requirements of this section, and the failure to comply with

1 the requirements of this section is not grounds for setting aside the
2 conviction or sentence.

3 ~~((6))~~ (7) Nothing in this section may be construed to create a
4 private right of action or claim on the part of any individual,
5 entity, or agency against any law enforcement agency or any
6 contractor of any law enforcement agency.

7 ~~((7))~~ (8) This section applies to sexual assault examinations
8 performed on or after July 24, 2015.

9 ~~((8)(a) Until June 30, 2023, the))~~ (a) The Washington state
10 patrol shall compile the following information related to the sexual
11 assault kits identified in this section and RCW 5.70.050:

12 (i) The total number of requests and the number of requests
13 occurring in the previous 12 months for laboratory examination ~~((made~~
14 ~~for))~~ of sexual assault kits and the law enforcement agencies that
15 submitted the requests; ~~((and))~~

16 (ii) The progress made towards testing the sexual assault kits,
17 including the status of requests for laboratory examination made by
18 each law enforcement agency; and

19 (iii) The total number of hits and the number of hits occurring
20 in the previous 12 months in the combined DNA index system connected
21 to forensic analysis of sexual assault kits under this section.

22 (b) The ~~((Washington state patrol shall make recommendations for~~
23 ~~increasing the progress on testing any untested sexual assault kits.~~

24 ~~((Beginning in 2015, the))~~ Washington state patrol shall submit
25 an annual report ~~((its findings and recommendations annually))~~ with
26 the information required by this section to the appropriate
27 committees of the legislature and the governor by ~~((December 1st))~~
28 July 31st of each year.

29 (c) The Washington state patrol may submit the information under
30 (a) of this subsection with the report required by RCW 43.43.545, in
31 which case a separate report under this section is not required.

32 **Sec. 3.** RCW 5.70.050 and 2020 c 26 s 5 are each amended to read
33 as follows:

34 (1) Law enforcement agencies shall submit requests for forensic
35 analysis of all sexual assault kits collected prior to July 24, 2015,
36 and in the possession of the agencies to the Washington state patrol
37 crime laboratory by October 1, 2019, except submission for forensic
38 analysis is not required when: (a) Forensic analysis has previously
39 been conducted; (b) there is documentation of an adult victim or

1 emancipated minor victim expressing that he or she does not want his
2 or her sexual assault kit submitted for forensic analysis; or (c) a
3 sexual assault kit is noninvestigatory and held by a law enforcement
4 agency pursuant to an agreement with a hospital or other medical
5 provider. The requirements of this subsection apply regardless of the
6 statute of limitations or the status of any related investigation.

7 (2) The Washington state patrol crime laboratory may consult with
8 local law enforcement agencies to coordinate the efficient submission
9 of requests for forensic analysis under this section in conjunction
10 with the implementation of the statewide tracking system under RCW
11 43.43.545, provided that all requests are submitted and all required
12 information is entered into the statewide sexual assault tracking
13 system by October 1, 2019. The Washington state patrol crime
14 laboratory shall facilitate the forensic analysis of all sexual
15 assault kits submitted under this section by December 1, 2021. The
16 analysis may be conducted by the Washington state patrol laboratory
17 or an accredited laboratory holding a contract or agreement with the
18 Washington state patrol. The Washington state patrol shall process
19 the forensic analysis of sexual assault kits in accordance with the
20 priorities in RCW 5.70.040(2).

21 (3) The requirements to request and complete laboratory
22 examination of sexual assault kits under this section do not include
23 forensic toxicological analysis. However, nothing in this section
24 limits or modifies the authority of a law enforcement agency to
25 request toxicological analysis of evidence collected in a sexual
26 assault kit.

27 (4) When forensic analysis of a sexual assault kit submitted
28 under this section generates a profile resulting in a hit in the
29 combined DNA index system, the applicable law enforcement agency
30 shall, within 90 days of receiving the results of the forensic
31 analysis, initiate a criminal investigation of any report connected
32 to the sexual assault kit or document why the investigation could not
33 be initiated, unless the investigation has already been initiated.

34 (5) The failure of a law enforcement agency to (~~submit a request~~
35 ~~for laboratory examination~~) comply with the requirements under this
36 section within the time prescribed under this section does not
37 constitute grounds in any criminal proceeding for challenging the
38 validity of a DNA evidence association, and any evidence obtained
39 from the sexual assault kit may not be excluded by a court on those
40 grounds.

1 (~~(5)~~) (6) A person accused or convicted of committing a crime
2 against a victim has no standing to object to any failure to comply
3 with the requirements of this section, and the failure to comply with
4 the requirements of this section is not grounds for setting aside the
5 conviction or sentence.

6 (~~(6)~~) (7) Nothing in this section may be construed to create a
7 private right of action or claim on the part of any individual,
8 entity, or agency against any law enforcement agency or any
9 contractor of any law enforcement agency.

10 **Sec. 4.** RCW 9A.04.080 and 2022 c 282 s 4 are each amended to
11 read as follows:

12 (1) Prosecutions for criminal offenses shall not be commenced
13 after the periods prescribed in this section.

14 (a) The following offenses may be prosecuted at any time after
15 their commission:

16 (i) Murder;

17 (ii) Homicide by abuse;

18 (iii) Arson if a death results;

19 (iv) Vehicular homicide;

20 (v) Vehicular assault if a death results;

21 (vi) Hit-and-run injury-accident if a death results (RCW
22 46.52.020(4));

23 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is
24 under the age of sixteen;

25 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is
26 under the age of sixteen;

27 (ix) Rape of a child in the first degree (RCW 9A.44.073);

28 (x) Rape of a child in the second degree (RCW 9A.44.076);

29 (xi) Rape of a child in the third degree (RCW 9A.44.079);

30 (xii) Sexual misconduct with a minor in the first degree (RCW
31 9A.44.093);

32 (xiii) Custodial sexual misconduct in the first degree (RCW
33 9A.44.160);

34 (xiv) Child molestation in the first degree (RCW 9A.44.083);

35 (xv) Child molestation in the second degree (RCW 9A.44.086);

36 (xvi) Child molestation in the third degree (RCW 9A.44.089); and

37 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

1 (b) Except as provided in (a) of this subsection, the following
2 offenses may not be prosecuted more than twenty years after its
3 commission:

- 4 (i) Rape in the first degree (RCW 9A.44.040);
- 5 (ii) Rape in the second degree (RCW 9A.44.050); or
- 6 (iii) Indecent liberties (RCW 9A.44.100).

7 (c) The following offenses may not be prosecuted more than ten
8 years after its commission:

9 (i) Any felony committed by a public officer if the commission is
10 in connection with the duties of his or her office or constitutes a
11 breach of his or her public duty or a violation of the oath of
12 office;

- 13 (ii) Arson if no death results;
- 14 (iii) Rape in the third degree (RCW 9A.44.060);
- 15 (iv) Attempted murder; or
- 16 (v) Trafficking under RCW 9A.40.100.

17 (d) A violation of any offense listed in this subsection (1)(d)
18 may be prosecuted up to ten years after its commission or, if
19 committed against a victim under the age of eighteen, up to the
20 victim's thirtieth birthday, whichever is later:

- 21 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);
- 22 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a
23 minor);
- 24 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse
25 of a minor); or
- 26 (iv) RCW 9A.64.020 (incest).

27 (e) The following offenses may not be prosecuted more than six
28 years after its commission or discovery, whichever occurs later:

- 29 (i) Violations of RCW 9A.82.060 or 9A.82.080;
- 30 (ii) Any felony violation of chapter 9A.83 RCW;
- 31 (iii) Any felony violation of chapter 9.35 RCW;
- 32 (iv) Theft in the first or second degree under chapter 9A.56 RCW
33 when accomplished by color or aid of deception;
- 34 (v) Theft from a vulnerable adult under RCW 9A.56.400;
- 35 (vi) Trafficking in stolen property in the first or second degree
36 under chapter 9A.82 RCW in which the stolen property is a motor
37 vehicle or major component part of a motor vehicle as defined in RCW
38 46.80.010; or

- 39 (vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

1 (f) The following offenses may not be prosecuted more than five
2 years after its commission: Any class C felony under chapter 74.09,
3 82.36, or 82.38 RCW.

4 (g) Bigamy may not be prosecuted more than three years after the
5 time specified in RCW 9A.64.010.

6 (h) A violation of RCW 9A.56.030 may not be prosecuted more than
7 three years after the discovery of the offense when the victim is a
8 tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

9 (i) No other felony may be prosecuted more than three years after
10 its commission; except that in a prosecution under RCW 9A.44.115, if
11 the person who was viewed, photographed, or filmed did not realize at
12 the time that he or she was being viewed, photographed, or filmed,
13 the prosecution must be commenced within two years of the time the
14 person who was viewed or in the photograph or film first learns that
15 he or she was viewed, photographed, or filmed.

16 (j) No gross misdemeanor may be prosecuted more than two years
17 after its commission.

18 (k) No misdemeanor may be prosecuted more than one year after its
19 commission.

20 (2) The periods of limitation prescribed in subsection (1) of
21 this section do not run during any time when the person charged is
22 not usually and publicly resident within this state.

23 (3) In any prosecution for a sex offense as defined in RCW
24 9.94A.030, the periods of limitation prescribed in subsection (1) of
25 this section run from the date of commission or (~~two~~) four years
26 from the date on which the identity of the suspect is conclusively
27 established by deoxyribonucleic acid testing or by photograph as
28 defined in RCW 9.68A.011, whichever is later.

29 (4) If, before the end of a period of limitation prescribed in
30 subsection (1) of this section, an indictment has been found or a
31 complaint or an information has been filed, and the indictment,
32 complaint, or information is set aside, then the period of limitation
33 is extended by a period equal to the length of time from the finding
34 or filing to the setting aside.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.10
36 RCW to read as follows:

37 (1)(a) The sexual assault forensic examination best practices
38 advisory group is established within the office of the attorney
39 general for the purpose of reviewing best practice models for

1 managing all aspects of sexual assault investigations and for
2 reducing the number of untested sexual assault kits in Washington
3 state.

4 (i) The caucus leaders from the senate shall appoint one member
5 from each of the two largest caucuses of the senate.

6 (ii) The caucus leaders from the house of representatives shall
7 appoint one member from each of the two largest caucuses of the house
8 of representatives.

9 (iii) The attorney general, in consultation with the legislative
10 members of the advisory group, shall appoint:

11 (A) One member representing each of the following:

12 (I) The Washington state patrol;

13 (II) The Washington association of sheriffs and police chiefs;

14 (III) The Washington association of prosecuting attorneys;

15 (IV) The Washington defender association or the Washington
16 association of criminal defense lawyers;

17 (V) The Washington association of cities;

18 (VI) The Washington association of county officials;

19 (VII) The Washington coalition of sexual assault programs;

20 (VIII) The office of crime victims advocacy;

21 (IX) The Washington state hospital association;

22 (X) The office of the attorney general; and

23 (XI) The criminal justice training commission;

24 (B) Two members representing survivors of sexual assault;

25 (C) One member who is a sexual assault nurse examiner;

26 (D) Two members who are law enforcement officers, one from a
27 rural area and one from an urban area of the state;

28 (E) One member who is a prosecuting attorney serving in a county
29 in a rural area of the state; and

30 (F) Two members who are community-based advocates, one from a
31 rural area and one from an urban area of the state.

32 (b) When appointing members under (a)(iii)(D) of this subsection,
33 the office of the attorney general shall solicit recommendations from
34 statewide labor organizations representing law enforcement officers.

35 (2) The duties of the advisory group include, but are not limited
36 to:

37 (a) Researching the best practice models both in state and from
38 other states for collaborative responses to victims of sexual assault
39 from the point the sexual assault kit is collected to the conclusion
40 of the investigation and prosecution of a case, and providing

1 recommendations regarding any existing gaps in Washington and
2 resources that may be necessary to address those gaps;

3 (b) Researching and making recommendations on opportunities to
4 increase access to, and availability of, critical sexual assault
5 nurse examiner services;

6 (c) Monitoring the testing of the backlog of sexual assault kits
7 and the supply chain and distribution of sexual assault kits;

8 (d) Monitoring implementation of state and federal legislative
9 changes;

10 (e) Collaborating with the legislature, state agencies, medical
11 facilities, and local governments to implement reforms pursuant to
12 federal grant requirements; and

13 (f) Making recommendations for institutional reforms necessary to
14 prevent sexual assault and improve the experiences of sexual assault
15 survivors in the criminal justice system.

16 (3) The office of the attorney general shall administer and
17 provide staff support to the advisory group.

18 (4) Legislative members of the advisory group must be reimbursed
19 for travel expenses in accordance with RCW 44.04.120. Nonlegislative
20 members, except those representing an employer or organization, are
21 entitled to be reimbursed for travel expenses in accordance with RCW
22 43.03.050 and 43.03.060.

23 (5) The advisory group must meet no less than twice annually.

24 (6) The advisory group shall report its findings and
25 recommendations to the appropriate committees of the legislature and
26 the governor by December 15th of each year.

27 (7) This section expires July 1, 2026.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.101
29 RCW to read as follows:

30 (1) Subject to the availability of amounts appropriated for this
31 specific purpose, the commission shall administer a grant program for
32 establishing a statewide resource prosecutor for sexual assault
33 cases.

34 (2) The grant recipient must be a statewide organization or
35 association representing prosecuting attorneys. The grant recipient
36 shall hire a resource prosecutor for the following purposes:

37 (a) To provide technical assistance and research to prosecutors
38 for prosecuting sexual assault cases;

1 (b) To provide additional training and resources to prosecutors
2 to support a trauma-informed, victim-centered approach to prosecuting
3 sexual assault cases;

4 (c) To meet regularly with law enforcement agencies and
5 prosecutors to explain legal issues and prosecutorial approaches to
6 sexual assault cases and provide and receive feedback to improve case
7 outcomes;

8 (d) To consult with the commission, the office of the attorney
9 general, and the sexual assault forensic examination best practices
10 advisory group under section 5 of this act with respect to developing
11 and implementing best practices for prosecuting sexual assault cases
12 across the state; and

13 (e) To comply with other requirements established by the
14 commission under this section.

15 (3) The commission may, in consultation with the sexual assault
16 forensic examination best practices advisory group under section 5 of
17 this act, establish additional appropriate conditions for any grant
18 awarded under this section. The commission may adopt necessary
19 policies and procedures to implement and administer the grant
20 program, including monitoring the use of grant funds and compliance
21 with the grant requirements.

22 **PART II**
23 **TRAINING**

24 **Sec. 7.** RCW 43.101.272 and 2019 c 93 s 5 are each amended to
25 read as follows:

26 (1) Subject to the availability of amounts appropriated for this
27 specific purpose, the commission shall provide ongoing specialized,
28 intensive, and integrative training for persons responsible for
29 investigating sexual assault (~~eases~~) and other gender-based
30 violence involving adult victims, and the highest ranking supervisors
31 and commanders overseeing sexual assault and other gender-based
32 violence investigations. The training must be based on a victim-
33 centered, trauma-informed approach to responding to sexual assault.
34 Among other subjects, the training must include content on the
35 neurobiology of trauma and trauma-informed interviewing, counseling,
36 and investigative techniques.

37 (2) The training must: Be based on research-based practices and
38 standards; offer participants an opportunity to practice interview

1 skills and receive feedback from instructors; minimize the trauma of
2 all persons who are interviewed during abuse investigations; provide
3 methods of reducing the number of investigative interviews necessary
4 whenever possible; assure, to the extent possible, that investigative
5 interviews are thorough, objective, and complete; recognize needs of
6 special populations; recognize the nature and consequences of
7 victimization; require investigative interviews to be conducted in a
8 manner most likely to permit the interviewed persons the maximum
9 emotional comfort under the circumstances; address record retention
10 and retrieval; address documentation of investigative interviews; and
11 educate investigators on the best practices for notifying victims of
12 the results of forensic analysis of sexual assault kits and other
13 significant events in the investigative process, including for active
14 investigations and cold cases.

15 (3) In developing the training, the commission shall seek advice
16 from the Washington association of sheriffs and police chiefs, the
17 Washington coalition of sexual assault programs, and experts on
18 sexual assault, gender-based violence, and the neurobiology of
19 trauma. The commission shall consult with the Washington association
20 of prosecuting attorneys in an effort to design training containing
21 consistent elements for all professionals engaged in interviewing and
22 interacting with sexual assault victims in the criminal justice
23 system.

24 (4) (~~The commission shall develop the training and begin~~
25 ~~offering it by July 1, 2018.~~) Officers assigned to regularly
26 investigate sexual assault and other gender-based violence involving
27 adult victims and the highest ranking supervisors and commanders
28 overseeing those investigations shall complete the training within
29 one year of being assigned (~~or by July 1, 2020, whichever is~~
30 ~~later~~).

31 **Sec. 8.** RCW 43.101.276 and 2017 c 290 s 5 are each amended to
32 read as follows:

33 (1) Subject to the availability of amounts appropriated for this
34 specific purpose, the commission shall develop peace officer training
35 on a victim-centered, trauma-informed approach to interacting with
36 victims and responding to (~~sexual assault~~) calls involving gender-
37 based violence. The curriculum must: Be (~~designed for commissioned~~
38 ~~patrol officers not regularly assigned to investigate sexual assault~~
39 ~~eases; be~~) designed for deployment and use within individual law

1 enforcement agencies; include features allowing for it to be used in
2 different environments, which may include multimedia or video
3 components; and allow for law enforcement agencies to host it in
4 small segments at different times over several days or weeks,
5 including roll calls. The training must include components on
6 available resources for victims including, but not limited to,
7 material on and references to community-based victim advocates.

8 (2) In developing the training, the commission shall seek advice
9 from the Washington association of sheriffs and police chiefs, the
10 Washington coalition of sexual assault programs, and experts on
11 sexual assault, gender-based violence, and the neurobiology of
12 trauma.

13 ~~((Beginning in 2018, all law enforcement agencies shall
14 annually host the training for commissioned peace officers. All law
15 enforcement agencies shall, to the extent feasible, consult with and
16 feature local community-based victim advocates during the training.))~~
17 All peace officers shall complete the training under this section at
18 least once every three years.

19 **Sec. 9.** RCW 43.101.278 and 2021 c 118 s 3 are each amended to
20 read as follows:

21 (1) Subject to the availability of amounts appropriated for this
22 specific purpose, the commission shall conduct an annual case review
23 program. The program must review case files from law enforcement
24 agencies and prosecuting attorneys selected by the commission in
25 order to identify changes to training and investigatory practices
26 necessary to optimize outcomes in sexual assault investigations and
27 prosecutions involving adult victims. The program must include:

28 (a) An evaluation of whether current training and practices
29 foster a trauma-informed, victim-centered approach to victim
30 interviews and that identifies best practices and current gaps in
31 training and assesses the integration of the community resiliency
32 model;

33 (b) A comparison of cases involving investigators and
34 interviewers who have participated in training to cases involving
35 investigators and interviewers who have not participated in training;

36 (c) A comparison of cases involving prosecutors who have
37 participated in the training described in section 10 of this act to
38 cases involving prosecutors who have not participated in such
39 training;

1 (d) Randomly selected cases for a systematic review to assess
2 whether current practices conform to national best practices for a
3 multidisciplinary approach to investigating and prosecuting sexual
4 assault cases and interacting with survivors; and

5 ~~((d))~~ (e) An analysis of the impact that race and ethnicity
6 have on sexual assault case outcomes.

7 (2) The case review program may review and access files,
8 including all reports and recordings, pertaining to closed cases
9 involving allegations of adult sexual assault only. Any law
10 enforcement agency or prosecuting attorney selected for the program
11 by the commission shall make requested case files and other documents
12 available to the commission, provided that the case files are not
13 linked to ongoing, open investigations and that redactions may be
14 made where appropriate and necessary. Agencies and prosecuting
15 attorneys shall include available information on the race and
16 ethnicity of all sexual assault victims in the relevant case files
17 provided to the commission. Case files and other documents must be
18 made available to the commission according to appropriate deadlines
19 established by the commission in consultation with the agency or
20 prosecuting attorney.

21 (3) If a law enforcement agency has not participated in the
22 training under RCW 43.101.272 (~~by July 1, 2022~~) or 43.101.276
23 within the previous 24 months, the commission may prioritize the
24 agency for selection to participate in the program under this
25 section.

26 (4) In designing and conducting the program, the commission shall
27 consult and collaborate with experts in trauma-informed and victim-
28 centered training, experts in sexual assault investigations and
29 prosecutions, victim advocates, and other stakeholders identified by
30 the commission. The commission may form a multidisciplinary working
31 group for the purpose of carrying out the requirements of this
32 section.

33 (5) The commission shall submit a report with a summary of its
34 work to the governor and the appropriate committees of the
35 legislature by December 1st of each year.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.101
37 RCW to read as follows:

38 (1) Subject to the availability of amounts appropriated for this
39 specific purpose, the commission shall, in partnership with the

1 special resource prosecutor under section 6 of this act, develop and
2 conduct specialized, intensive, and integrative training for persons
3 responsible for prosecuting sexual assault cases involving adult
4 victims.

5 (2) The training must:

6 (a) Use a victim-centered, trauma-informed approach to
7 prosecuting sexual assaults including, but not limited to, the
8 following goals: Recognizing the nature and consequences of
9 victimization; prioritizing the safety and well-being of victims; and
10 recognizing the needs of special populations;

11 (b) Include content on the neurobiology of trauma and trauma-
12 informed interviewing, counseling, investigative, and prosecution
13 techniques;

14 (c) Offer participants an opportunity to practice interview and
15 trial skills, including receiving feedback from instructors;

16 (d) Share best practices for communicating with victims
17 throughout the criminal justice process;

18 (e) Include additional content relevant to and informed by best
19 practices for improving outcomes in sexual assault prosecutions, as
20 deemed appropriate by the commission;

21 (f) Take into account the training under RCW 43.101.272 in order
22 to provide consistent and complimentary training for investigators
23 and prosecutors;

24 (g) Be designed to qualify for some continuing legal education
25 credits through the Washington state bar association; and

26 (h) Be offered at least once per calendar year and be deployed in
27 different locations across the state, or through some other broadly
28 accessible means, in order to improve access to the training for
29 prosecutors serving in small offices or rural areas.

30 **PART III**

31 **FORENSIC EXAMINATIONS AND EVIDENCE**

32 **Sec. 11.** RCW 7.68.170 and 1979 ex.s. c 219 s 11 are each amended
33 to read as follows:

34 (1) No costs incurred by a hospital or other emergency medical
35 facility located in the state for the examination of the victim of a
36 sexual assault, when such examination is performed for the purposes
37 of gathering evidence for possible prosecution, shall be billed or
38 charged directly or indirectly to the victim of such assault.

1 regardless of whether the victim is a state resident. Such costs
2 shall be paid by the state pursuant to this chapter.

3 (2) A sexual assault victim who is a state resident and who
4 receives an examination performed for the purposes of gathering
5 evidence for possible prosecution by a hospital or other emergency
6 medical facility located outside of the state may seek reimbursement
7 for any costs charged to him or her by the hospital or facility, and
8 those costs shall be reimbursed by the state pursuant to this
9 chapter. The department may establish arrangements with any hospital
10 or facility located out of state to allow costs for examinations of
11 state residents to be paid according to the same procedures under
12 subsection (1) of this section so as to prevent such residents from
13 being charged directly or indirectly for the examination.

14 **Sec. 12.** RCW 43.43.545 and 2020 c 26 s 6 are each amended to
15 read as follows:

16 (1) The Washington state patrol shall create and operate a
17 statewide sexual assault kit tracking system. The Washington state
18 patrol may contract with state or nonstate entities including, but
19 not limited to, private software and technology providers, for the
20 creation, operation, and maintenance of the system.

21 (2) The statewide sexual assault kit tracking system must:

22 (a) Track the location and status of sexual assault kits
23 throughout the criminal justice process, including the initial
24 collection in examinations performed at medical facilities, receipt
25 and storage at law enforcement agencies, receipt and analysis at
26 forensic laboratories, and storage and any destruction after
27 completion of analysis;

28 (b) Designate sexual assault kits as unreported or reported;

29 (c) Indicate whether a sexual assault kit contains biological
30 materials collected for the purpose of forensic toxicological
31 analysis;

32 (d) Allow medical facilities performing sexual assault forensic
33 examinations, law enforcement agencies, prosecutors, the Washington
34 state patrol bureau of forensic laboratory services, and other
35 entities having custody of sexual assault kits to update and track
36 the status and location of sexual assault kits;

37 (e) Allow victims of sexual assault to anonymously track or
38 receive updates regarding the status of their sexual assault kits;
39 and

1 (f) Use electronic technology or technologies allowing continuous
2 access.

3 (3) The Washington state patrol may use a phased implementation
4 process in order to launch the system and facilitate entry and use of
5 the system for required participants. The Washington state patrol may
6 phase initial participation according to region, volume, or other
7 appropriate classifications. All entities having custody of sexual
8 assault kits shall fully participate in the system no later than June
9 1, 2018. The Washington state patrol shall submit a report on the
10 current status and plan for launching the system, including the plan
11 for phased implementation, to the joint legislative task force on
12 sexual assault forensic examination best practices, the appropriate
13 committees of the legislature, and the governor no later than January
14 1, 2017.

15 (4) The Washington state patrol shall submit (~~(a semiannual)~~) an
16 annual report on the statewide sexual assault kit tracking system to
17 the (~~(joint legislative task force on)~~) sexual assault forensic
18 examination best practices advisory group, the appropriate committees
19 of the legislature, and the governor. The Washington state patrol may
20 publish the current report on its website. The (~~(first report is due~~
21 ~~July 31, 2018, and subsequent reports are)~~) annual report is due
22 (~~(January 31st and)~~) July 31st of each year. The report must include
23 the following:

24 (a) The total number of sexual assault kits in the system
25 statewide and by jurisdiction;

26 (b) The total and semiannual number of sexual assault kits where
27 forensic analysis has been completed statewide and by jurisdiction;

28 (c) The number of sexual assault kits added to the system in the
29 reporting period statewide and by jurisdiction;

30 (d) The total and semiannual number of sexual assault kits where
31 forensic analysis has been requested but not completed statewide and
32 by jurisdiction;

33 (e) The average and median length of time for sexual assault kits
34 to be submitted for forensic analysis after being added to the
35 system, including separate sets of data for all sexual assault kits
36 in the system statewide and by jurisdiction and for sexual assault
37 kits added to the system in the reporting period statewide and by
38 jurisdiction;

39 (f) The average and median length of time for forensic analysis
40 to be completed on sexual assault kits after being submitted for

1 analysis, including separate sets of data for all sexual assault kits
2 in the system statewide and by jurisdiction and for sexual assault
3 kits added to the system in the reporting period statewide and by
4 jurisdiction;

5 (g) The total and semiannual number of sexual assault kits
6 destroyed or removed from the system statewide and by jurisdiction;

7 (h) The total number of sexual assault kits, statewide and by
8 jurisdiction, where forensic analysis has not been completed and six
9 months or more have passed since those sexual assault kits were added
10 to the system; and

11 (i) The total number of sexual assault kits, statewide and by
12 jurisdiction, where forensic analysis has not been completed and one
13 year or more has passed since those sexual assault kits were added to
14 the system.

15 (5) For the purpose of reports under subsection (4) of this
16 section, a sexual assault kit must be assigned to the jurisdiction
17 associated with the law enforcement agency anticipated to receive the
18 sexual assault kit or otherwise having custody of the sexual assault
19 kit.

20 (6) Any public agency or entity, including its officials and
21 employees, and any hospital and its employees providing services to
22 victims of sexual assault may not be held civilly liable for damages
23 arising from any release of information or the failure to release
24 information related to the statewide sexual assault kit tracking
25 system, so long as the release was without gross negligence.

26 (7) The Washington state patrol shall adopt rules as necessary to
27 implement this section.

28 (8) For the purposes of this section:

29 (a) "Reported sexual assault kit" means a sexual assault kit
30 where a law enforcement agency has received a related report or
31 complaint alleging a sexual assault or other crime has occurred;

32 (b) "Sexual assault kit" includes all evidence collected during a
33 sexual assault medical forensic examination; and

34 (c) "Unreported sexual assault kit" means a sexual assault kit
35 where a law enforcement agency has not received a related report or
36 complaint alleging a sexual assault or other crime has occurred.

37 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.02
38 RCW to read as follows:

1 A disclosure authorization to a health care provider or health
2 care facility authorizing disclosure of information to law
3 enforcement regarding a forensic examination performed for the
4 purposes of gathering evidence for possible prosecution of a criminal
5 offense must be valid until the end of all related criminal
6 proceedings or a later event selected by the provider, facility,
7 patient, or patient's representative, unless the patient or patient's
8 representative requests a different expiration date or event for the
9 disclosure authorization.

10 **PART IV**

11 **SERVICES AND SUPPORT FOR VICTIMS**

12 **Sec. 14.** RCW 7.68.380 and 2020 c 331 s 2 are each amended to
13 read as follows:

14 (1) Subject to the availability of amounts appropriated for this
15 specific purpose, the department of children, youth, and families
16 shall administer funding for ~~((two))~~ receiving center programs for
17 commercially sexually exploited children. ~~((One))~~ At least one of
18 these programs must be located west of the crest of the Cascade
19 mountains, and at least one of these programs must be located east of
20 the crest of the Cascade mountains. Law enforcement and service
21 providers may refer children to these programs or children may self-
22 refer into these programs.

23 ~~((The receiving center programs established under this
24 section shall:~~

25 ~~(a) Begin providing services by January 1, 2021;~~

26 ~~(b) Utilize existing facilities and not require the construction
27 of new facilities; and~~

28 ~~(c) Provide ongoing case management for all children who are
29 being served or were served by the programs.~~

30 ~~(3))~~ The receiving centers established under this section shall:

31 (a) Include a short-term evaluation function that is accessible
32 twenty-four hours per day seven days per week that has the capacity
33 to evaluate the immediate needs of commercially sexually exploited
34 children ages twelve through seventeen and either meet those
35 immediate needs or refer those children to the appropriate services;

36 (b) Assess children for mental health and substance use disorder
37 needs and provide appropriate referrals as needed; ~~((and))~~

1 (c) Provide individual and group counseling focused on developing
2 and strengthening coping skills, and improving self-esteem and
3 dignity;

4 (d) Provide shelter and services within the receiving center for
5 up to seven days; and

6 (e) Provide ongoing case management for all children who are
7 being served or were served by the programs.

8 ~~((4))~~ (3) The department of children, youth, and families
9 shall:

10 (a) Collect nonidentifiable demographic data of the children
11 served by the programs established under this section;

12 (b) Collect data regarding the locations that children exit to
13 after being served by the programs; and

14 (c) Report the data described in this subsection along with
15 recommendations for modification or expansion of these programs to
16 the relevant committees of the legislature by December 1, 2022.

17 ~~((5))~~ (4) For the purposes of this section, the following
18 definitions apply:

19 (a) "Receiving center" means a trauma-informed, secure location
20 that meets the multidisciplinary needs of commercially sexually
21 exploited children ages twelve through seventeen located in a
22 behavioral health agency licensed or certified under RCW 71.24.037 to
23 provide inpatient or residential treatment services; and

24 (b) "Short-term evaluation function" means a short-term emergency
25 shelter that is accessible twenty-four hours per day seven days per
26 week that has the capacity to evaluate the immediate needs of
27 commercially sexually exploited children under age eighteen and
28 either meet those immediate needs or refer those children to the
29 appropriate services.

30 ~~((6(a)))~~ (5) The department of children, youth, and families,
31 the department of health, and the division of behavioral health and
32 recovery, shall meet to coordinate the implementation of receiving
33 centers as provided for in this section, including developing
34 eligibility criteria for serving commercially sexually exploited
35 children that allows referral from service providers and prioritizes
36 referral from law enforcement.

37 ~~((b) By December 1, 2020, and in compliance with RCW 43.01.036,~~
38 ~~the department of children, youth, and families shall submit a report~~
39 ~~to the governor and legislature summarizing the implementation plan~~
40 ~~and eligibility criteria as described in (a) of this subsection, and~~

1 ~~provide any additional policy recommendations regarding receiving~~
2 ~~centers as it deems necessary.)~~)

3 NEW SECTION. **Sec. 15.** A new section is added to chapter 7.68
4 RCW to read as follows:

5 (1) Subject to the availability of amounts appropriated for this
6 specific purpose, the department shall establish a program for
7 counseling services for victims of sexual assault whose sexual
8 assault kits were in the statewide testing backlog.

9 (2) To be eligible for benefits under the program established in
10 this section, the victim of sexual assault must have undergone a
11 forensic examination prior to July 24, 2015, and the sexual assault
12 kit collected during the forensic examination must have been tested
13 on or after July 24, 2015. Any other eligibility requirements and
14 restrictions under this chapter do not apply for the purposes of the
15 program under this section.

16 (3) Any victim eligible for benefits under the program may
17 receive up to six counseling sessions in the 12 months following his
18 or her application for benefits. Fees for such counseling must be
19 determined by the department. Benefits under this program are not
20 subject to the requirements in RCW 7.68.130. Costs may be billed or
21 charged by the provider or facility to the department, and such costs
22 must be paid by the department pursuant to this chapter. Otherwise,
23 the department shall reimburse the victim for any costs charged
24 directly to him or her by the provider or facility.

25 (4) This section expires July 1, 2028.

26 **Sec. 16.** RCW 43.185C.260 and 2020 c 331 s 8 are each amended to
27 read as follows:

28 (1) A law enforcement officer shall take a child into custody:

29 (a) If a law enforcement agency has been contacted by the parent
30 of the child that the child is absent from parental custody without
31 consent; or

32 (b) If a law enforcement officer reasonably believes, considering
33 the child's age, the location, and the time of day, that a child is
34 in circumstances which constitute a danger to the child's safety or
35 that a child is violating a local curfew ordinance; or

36 (c) If an agency legally charged with the supervision of a child
37 has notified a law enforcement agency that the child has run away
38 from placement.

1 (2) Law enforcement custody shall not extend beyond the amount of
2 time reasonably necessary to transport the child to a destination
3 authorized by law and to place the child at that destination. Law
4 enforcement custody continues until the law enforcement officer
5 transfers custody to a person, agency, or other authorized entity
6 under this chapter, or releases the child because no placement is
7 available. Transfer of custody is not complete unless the person,
8 agency, or entity to whom the child is released agrees to accept
9 custody.

10 (3) If a law enforcement officer takes a child into custody
11 pursuant to either subsection (1)(a) or (b) of this section and
12 transports the child to a crisis residential center, the officer
13 shall, within twenty-four hours of delivering the child to the
14 center, provide to the center a written report detailing the reasons
15 the officer took the child into custody. The center shall provide the
16 department of children, youth, and families with a copy of the
17 officer's report if the youth is in the care of or receiving services
18 from the department of children, youth, and families.

19 (4) If the law enforcement officer who initially takes the
20 juvenile into custody or the staff of the crisis residential center
21 have reasonable cause to believe that the child is absent from home
22 because he or she is abused or neglected, a report shall be made
23 immediately to the department of children, youth, and families.

24 (5) Nothing in this section affects the authority of any
25 political subdivision to make regulations concerning the conduct of
26 minors in public places by ordinance or other local law.

27 (6) If a law enforcement officer has a reasonable suspicion that
28 a child is being unlawfully harbored in violation of RCW 13.32A.080,
29 the officer shall remove the child from the custody of the person
30 harboring the child and shall transport the child to one of the
31 locations specified in RCW 43.185C.265.

32 (7) If a law enforcement officer takes a juvenile into custody
33 pursuant to subsection (1)(b) of this section and reasonably believes
34 that the juvenile may be the victim of sexual exploitation, the
35 officer shall:

36 (a) Transport the child to:

37 (i) An evaluation and treatment facility as defined in RCW
38 71.34.020, including the receiving centers established in RCW
39 7.68.380, for purposes of evaluation for behavioral health treatment
40 authorized under chapter 71.34 RCW, including adolescent-initiated

1 treatment, family-initiated treatment, or involuntary treatment;
2 ((~~or~~))

3 (ii) Another appropriate youth-serving entity or organization
4 including, but not limited to:

5 (A) A HOPE Center as defined under RCW 43.185C.010;

6 (B) A foster family home as defined under RCW 74.15.020;

7 (C) A crisis residential center as defined under RCW 43.185C.010;

8 or

9 (D) A community-based program that has expertise working with
10 adolescents in crisis; or

11 (iii) A parent or legal guardian; or

12 (b) Coordinate transportation to one of the locations identified
13 in (a) of this subsection, with a liaison dedicated to serving
14 commercially sexually exploited children established under RCW
15 74.14B.070 or a community service provider.

16 (8) Law enforcement shall have the authority to take into
17 protective custody a child who is or is attempting to engage in
18 sexual conduct with another person for money or anything of value for
19 purposes of investigating the individual or individuals who may be
20 exploiting the child and deliver the child to an evaluation and
21 treatment facility as defined in RCW 71.34.020, including the
22 receiving centers established in RCW 7.68.380, for purposes of
23 evaluation for behavioral health treatment authorized under chapter
24 71.34 RCW, including adolescent-initiated treatment, family-initiated
25 treatment, or involuntary treatment.

26 (9) No child may be placed in a secure facility except as
27 provided in this chapter.

28 **PART V**

29 **RIGHTS OF VICTIMS, SURVIVORS OF VICTIMS, AND WITNESSES OF CRIMES**

30 **Sec. 17.** RCW 7.69.030 and 2022 c 229 s 1 are each amended to
31 read as follows:

32 (1) There shall be a reasonable effort made to ensure that
33 victims, survivors of victims, and witnesses of crimes have the
34 following rights, which apply to any ((~~criminal court and/or juvenile~~
35 ~~court proceeding~~)) adult or juvenile criminal proceeding and any
36 civil commitment proceeding under chapter 10.77 or 71.09 RCW:

37 ((~~1~~)) (a) With respect to victims of violent or sex crimes, to
38 receive, at the time of reporting the crime to law enforcement

1 officials, a written statement of the rights of crime victims as
2 provided in this chapter. The written statement shall include the
3 name, address, and telephone number of a county or local crime
4 victim/witness program, if such a crime victim/witness program exists
5 in the county;

6 ~~((2))~~ (b) To be informed by local law enforcement agencies or
7 the prosecuting attorney of the final disposition of the case in
8 which the victim, survivor, or witness is involved;

9 ~~((3))~~ (c) To be notified by the party who issued the subpoena
10 that a court proceeding to which they have been subpoenaed will not
11 occur as scheduled, in order to save the person an unnecessary trip
12 to court;

13 ~~((4))~~ (d) To receive protection from harm and threats of harm
14 arising out of cooperation with law enforcement and prosecution
15 efforts, and to be provided with information as to the level of
16 protection available;

17 ~~((5))~~ (e) To be informed of the procedure to be followed to
18 apply for and receive any witness fees to which they are entitled;

19 ~~((6))~~ (f) To be provided, whenever practical, a secure waiting
20 area during court proceedings that does not require them to be in
21 close proximity to defendants and families or friends of defendants;

22 ~~((7))~~ (g) To have any stolen or other personal property
23 expeditiously returned by law enforcement agencies or the superior
24 court when no longer needed as evidence. When feasible, all such
25 property, except weapons, currency, contraband, property subject to
26 evidentiary analysis, and property of which ownership is disputed,
27 shall be photographed and returned to the owner within ten days of
28 being taken;

29 ~~((8))~~ (h) To be provided with appropriate employer intercession
30 services to ensure that employers of victims, survivors of victims,
31 and witnesses of crime will cooperate with the criminal justice
32 process or the civil commitment process under chapter 10.77 or 71.09
33 RCW in order to minimize an employee's loss of pay and other benefits
34 resulting from court appearance;

35 ~~((9))~~ (i) To access to immediate medical assistance and not to
36 be detained for an unreasonable length of time by a law enforcement
37 agency before having such assistance administered. However, an
38 employee of the law enforcement agency may, if necessary, accompany
39 the person to a medical facility to question the person about the
40 criminal incident if the questioning does not hinder the

1 administration of medical assistance. Victims of domestic violence,
2 sexual assault, or stalking, as defined in RCW 49.76.020, shall be
3 notified of their right to reasonable leave from employment under
4 chapter 49.76 RCW;

5 ~~((10))~~ (j) With respect to victims of violent and sex crimes,
6 to have a crime victim advocate from a crime victim/witness program,
7 or any other support person of the victim's choosing, present at any
8 prosecutorial or defense interviews with the victim, and at any
9 judicial proceedings related to criminal acts committed against the
10 victim. This subsection applies if practical and if the presence of
11 the crime victim advocate or support person does not cause any
12 unnecessary delay in the investigation or prosecution of the case.
13 The role of the crime victim advocate is to provide emotional support
14 to the crime victim;

15 ~~((11))~~ (k) With respect to victims and survivors of victims, to
16 be physically present in court during trial, or if subpoenaed to
17 testify, to be scheduled as early as practical in the proceedings in
18 order to be physically present during trial after testifying and not
19 to be excluded solely because they have testified;

20 ~~((12))~~ (l) With respect to victims and survivors of victims in
21 any felony case ~~((e#))~~, any case involving domestic violence, or any
22 final determination under chapter 10.77 or 71.09 RCW, to be informed
23 by the prosecuting attorney of the date, time, and place of the trial
24 and of the sentencing hearing or disposition hearing upon request by
25 a victim or survivor;

26 ~~((13))~~ (m) To submit a victim impact statement or report to the
27 court, with the assistance of the prosecuting attorney if requested,
28 which shall be included in all presentence reports and permanently
29 included in the files and records accompanying the offender committed
30 to the custody of a state agency or institution;

31 ~~((14))~~ (n) With respect to victims and survivors of victims in
32 any felony case or any case involving domestic violence, to present a
33 statement, personally or by representation, at the sentencing
34 hearing; and

35 ~~((15))~~ (o) With respect to victims and survivors of victims, to
36 entry of an order of restitution by the court in all felony cases,
37 even when the offender is sentenced to confinement, unless
38 extraordinary circumstances exist which make restitution
39 inappropriate in the court's judgment.

1 (2) If a victim, survivor of a victim, or witness of a crime is
2 denied a right enumerated in this section, he or she may seek an
3 order directing compliance by the relevant party or parties by filing
4 a petition in the superior court in the county in which the crime
5 occurred and providing notice of such petition to the relevant party
6 or parties. Compliance with the right is the sole available remedy.
7 The court shall expedite consideration of a petition filed under this
8 subsection.

9 **PART VI**
10 **MISCELLANEOUS**

11 NEW SECTION. **Sec. 18.** RCW 43.101.270 (Sexual assault—Training
12 for investigating and prosecuting) and 2015 c 286 s 2 & 1991 c 267 s
13 2 are each repealed.

14 NEW SECTION. **Sec. 19.** Section 8 of this act takes effect July
15 1, 2024.

--- END ---