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**SECOND SUBSTITUTE HOUSE BILL 1028**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (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 02/24/23.

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 43.101.272, 43.101.276, 43.101.278, and  
4 9A.04.080; adding a new section to chapter 43.10 RCW; adding new  
5 sections to chapter 43.101 RCW; adding a new section to chapter 70.02  
6 RCW; creating a new section; providing an effective date; and  
7 providing an expiration date.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10  
10 RCW to read as follows:

11 (1)(a) The sexual assault forensic examination best practices  
12 advisory group is established within the office of the attorney  
13 general for the purpose of reviewing best practice models for  
14 managing all aspects of sexual assault investigations and for  
15 reducing the number of untested sexual assault kits in Washington  
16 state.

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

19 (ii) The caucus leaders from the house of representatives shall  
20 appoint one member from each of the two largest caucuses of the house  
21 of representatives.

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

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

4 (I) The Washington state patrol;

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

6 (III) The Washington association of prosecuting attorneys;

7 (IV) The Washington defender association or the Washington  
8 association of criminal defense lawyers;

9 (V) The Washington association of cities;

10 (VI) The Washington association of county officials;

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

12 (VIII) The office of crime victims advocacy;

13 (IX) The Washington state hospital association;

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

15 (XI) The criminal justice training commission;

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

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

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

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

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

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

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

29 (a) Researching the best practice models both in state and from  
30 other states for collaborative responses to victims of sexual assault  
31 from the point the sexual assault kit is collected to the conclusion  
32 of the investigation and prosecution of a case, and providing  
33 recommendations regarding any existing gaps in Washington and  
34 resources that may be necessary to address those gaps;

35 (b) Researching and making recommendations on opportunities to  
36 increase access to, and availability of, critical sexual assault  
37 nurse examiner services;

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

1 (d) Monitoring implementation of state and federal legislative  
2 changes;

3 (e) Collaborating with the legislature, state agencies, medical  
4 facilities, and local governments to implement reforms pursuant to  
5 federal grant requirements; and

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

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

11 (4) Legislative members of the advisory group must be reimbursed  
12 for travel expenses in accordance with RCW 44.04.120. Nonlegislative  
13 members, except those representing an employer or organization, are  
14 entitled to be reimbursed for travel expenses in accordance with RCW  
15 43.03.050 and 43.03.060.

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

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

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

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101  
22 RCW to read as follows:

23 (1) Subject to the availability of amounts appropriated for this  
24 specific purpose, the commission shall administer a grant program for  
25 establishing a statewide resource prosecutor for sexual assault  
26 cases.

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

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

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

35 (c) To meet regularly with law enforcement agencies and  
36 prosecutors to explain legal issues and prosecutorial approaches to  
37 sexual assault cases and provide and receive feedback to improve case  
38 outcomes;

1 (d) To consult with the commission, the office of the attorney  
2 general, and the sexual assault forensic examination best practices  
3 advisory group under section 1 of this act with respect to developing  
4 and implementing best practices for prosecuting sexual assault cases  
5 across the state; and

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

8 (3) The commission may, in consultation with the sexual assault  
9 forensic examination best practices advisory group under section 1 of  
10 this act, establish additional appropriate conditions for any grant  
11 awarded under this section. The commission may adopt necessary  
12 policies and procedures to implement and administer the grant  
13 program, including monitoring the use of grant funds and compliance  
14 with the grant requirements.

15 **Sec. 3.** RCW 43.101.272 and 2019 c 93 s 5 are each amended to  
16 read as follows:

17 (1) Subject to the availability of amounts appropriated for this  
18 specific purpose, the commission shall provide ongoing specialized,  
19 intensive, and integrative training for persons responsible for  
20 investigating sexual assault (~~cases~~) and other gender-based  
21 violence involving adult victims, and the highest ranking supervisors  
22 and commanders overseeing sexual assault and other gender-based  
23 violence investigations. The training must be based on a victim-  
24 centered, trauma-informed approach to responding to sexual assault.  
25 Among other subjects, the training must include content on the  
26 neurobiology of trauma and trauma-informed interviewing, counseling,  
27 and investigative techniques.

28 (2) The training must: Be based on research-based practices and  
29 standards; offer participants an opportunity to practice interview  
30 skills and receive feedback from instructors; minimize the trauma of  
31 all persons who are interviewed during abuse investigations; provide  
32 methods of reducing the number of investigative interviews necessary  
33 whenever possible; assure, to the extent possible, that investigative  
34 interviews are thorough, objective, and complete; recognize needs of  
35 special populations; recognize the nature and consequences of  
36 victimization; require investigative interviews to be conducted in a  
37 manner most likely to permit the interviewed persons the maximum  
38 emotional comfort under the circumstances; address record retention  
39 and retrieval; address documentation of investigative interviews; and

1 educate investigators on the best practices for notifying victims of  
2 the results of forensic analysis of sexual assault kits and other  
3 significant events in the investigative process, including for active  
4 investigations and cold cases.

5 (3) In developing the training, the commission shall seek advice  
6 from the Washington association of sheriffs and police chiefs, the  
7 Washington coalition of sexual assault programs, and experts on  
8 sexual assault, gender-based violence, and the neurobiology of  
9 trauma. The commission shall consult with the Washington association  
10 of prosecuting attorneys in an effort to design training containing  
11 consistent elements for all professionals engaged in interviewing and  
12 interacting with sexual assault victims in the criminal justice  
13 system.

14 (4) (~~The commission shall develop the training and begin~~  
15 ~~offering it by July 1, 2018.~~) Officers assigned to regularly  
16 investigate sexual assault and other gender-based violence involving  
17 adult victims and the highest ranking supervisors and commanders  
18 overseeing those investigations shall complete the training within  
19 one year of being assigned (~~or by July 1, 2020, whichever is~~  
20 ~~later~~).

21 **Sec. 4.** RCW 43.101.276 and 2017 c 290 s 5 are each amended to  
22 read as follows:

23 (1) Subject to the availability of amounts appropriated for this  
24 specific purpose, the commission shall develop peace officer training  
25 on a victim-centered, trauma-informed approach to interacting with  
26 victims and responding to (~~sexual assault~~) calls involving gender-  
27 based violence. The curriculum must: Be (~~designed for commissioned~~  
28 ~~patrol officers not regularly assigned to investigate sexual assault~~  
29 ~~eases; be~~) designed for deployment and use within individual law  
30 enforcement agencies; include features allowing for it to be used in  
31 different environments, which may include multimedia or video  
32 components; and allow for law enforcement agencies to host it in  
33 small segments at different times over several days or weeks,  
34 including roll calls. The training must include components on  
35 available resources for victims including, but not limited to,  
36 material on and references to community-based victim advocates.

37 (2) In developing the training, the commission shall seek advice  
38 from the Washington association of sheriffs and police chiefs, the  
39 Washington coalition of sexual assault programs, and experts on

1 sexual assault, gender-based violence, and the neurobiology of  
2 trauma.

3 ~~(3) ((Beginning in 2018, all law enforcement agencies shall~~  
4 ~~annually host the training for commissioned peace officers. All law~~  
5 ~~enforcement agencies shall, to the extent feasible, consult with and~~  
6 ~~feature local community-based victim advocates during the training.))~~  
7 All peace officers shall complete the training under this section at  
8 least once every three years.

9 **Sec. 5.** RCW 43.101.278 and 2021 c 118 s 3 are each amended to  
10 read as follows:

11 (1) Subject to the availability of amounts appropriated for this  
12 specific purpose, the commission shall conduct an annual case review  
13 program. The program must review case files from law enforcement  
14 agencies and prosecuting attorneys selected by the commission in  
15 order to identify changes to training and investigatory practices  
16 necessary to optimize outcomes in sexual assault investigations and  
17 prosecutions involving adult victims. The program must include:

18 (a) An evaluation of whether current training and practices  
19 foster a trauma-informed, victim-centered approach to victim  
20 interviews and that identifies best practices and current gaps in  
21 training and assesses the integration of the community resiliency  
22 model;

23 (b) A comparison of cases involving investigators and  
24 interviewers who have participated in training to cases involving  
25 investigators and interviewers who have not participated in training;

26 (c) A comparison of cases involving prosecutors who have  
27 participated in the training described in section 6 of this act to  
28 cases involving prosecutors who have not participated in such  
29 training;

30 (d) Randomly selected cases for a systematic review to assess  
31 whether current practices conform to national best practices for a  
32 multidisciplinary approach to investigating and prosecuting sexual  
33 assault cases and interacting with survivors; and

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

36 (2) The case review program may review and access files,  
37 including all reports and recordings, pertaining to closed cases  
38 involving allegations of adult sexual assault only. Any law  
39 enforcement agency or prosecuting attorney selected for the program

1 by the commission shall make requested case files and other documents  
2 available to the commission, provided that the case files are not  
3 linked to ongoing, open investigations and that redactions may be  
4 made where appropriate and necessary. Agencies and prosecuting  
5 attorneys shall include available information on the race and  
6 ethnicity of all sexual assault victims in the relevant case files  
7 provided to the commission. Case files and other documents must be  
8 made available to the commission according to appropriate deadlines  
9 established by the commission in consultation with the agency or  
10 prosecuting attorney.

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

16 (4) In designing and conducting the program, the commission shall  
17 consult and collaborate with experts in trauma-informed and victim-  
18 centered training, experts in sexual assault investigations and  
19 prosecutions, victim advocates, and other stakeholders identified by  
20 the commission. The commission may form a multidisciplinary working  
21 group for the purpose of carrying out the requirements of this  
22 section.

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

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

28 (1) Subject to the availability of amounts appropriated for this  
29 specific purpose, the commission shall, in partnership with the  
30 special resource prosecutor under section 2 of this act, develop and  
31 conduct specialized, intensive, and integrative training for persons  
32 responsible for prosecuting sexual assault cases involving adult  
33 victims.

34 (2) The training must:

35 (a) Use a victim-centered, trauma-informed approach to  
36 prosecuting sexual assaults including, but not limited to, the  
37 following goals: Recognizing the nature and consequences of  
38 victimization; prioritizing the safety and well-being of victims; and  
39 recognizing the needs of special populations;

1 (b) Include content on the neurobiology of trauma and trauma-  
2 informed interviewing, counseling, investigative, and prosecution  
3 techniques;

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

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

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

11 (f) Take into account the training under RCW 43.101.272 in order  
12 to provide consistent and complimentary training for investigators  
13 and prosecutors;

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

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

20 **Sec. 7.** RCW 9A.04.080 and 2022 c 282 s 4 are each amended to  
21 read as follows:

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

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

26 (i) Murder;

27 (ii) Homicide by abuse;

28 (iii) Arson if a death results;

29 (iv) Vehicular homicide;

30 (v) Vehicular assault if a death results;

31 (vi) Hit-and-run injury-accident if a death results (RCW  
32 46.52.020(4));

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

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

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

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

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



1 (xii) Sexual misconduct with a minor in the first degree (RCW  
2 9A.44.093);  
3 (xiii) Custodial sexual misconduct in the first degree (RCW  
4 9A.44.160);  
5 (xiv) Child molestation in the first degree (RCW 9A.44.083);  
6 (xv) Child molestation in the second degree (RCW 9A.44.086);  
7 (xvi) Child molestation in the third degree (RCW 9A.44.089); and  
8 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).  
9 (b) Except as provided in (a) of this subsection, the following  
10 offenses may not be prosecuted more than twenty years after its  
11 commission:  
12 (i) Rape in the first degree (RCW 9A.44.040);  
13 (ii) Rape in the second degree (RCW 9A.44.050); or  
14 (iii) Indecent liberties (RCW 9A.44.100).  
15 (c) The following offenses may not be prosecuted more than ten  
16 years after its commission:  
17 (i) Any felony committed by a public officer if the commission is  
18 in connection with the duties of his or her office or constitutes a  
19 breach of his or her public duty or a violation of the oath of  
20 office;  
21 (ii) Arson if no death results;  
22 (iii) Rape in the third degree (RCW 9A.44.060);  
23 (iv) Attempted murder; or  
24 (v) Trafficking under RCW 9A.40.100.  
25 (d) A violation of any offense listed in this subsection (1)(d)  
26 may be prosecuted up to ten years after its commission or, if  
27 committed against a victim under the age of eighteen, up to the  
28 victim's thirtieth birthday, whichever is later:  
29 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);  
30 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a  
31 minor);  
32 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse  
33 of a minor); or  
34 (iv) RCW 9A.64.020 (incest).  
35 (e) The following offenses may not be prosecuted more than six  
36 years after its commission or discovery, whichever occurs later:  
37 (i) Violations of RCW 9A.82.060 or 9A.82.080;  
38 (ii) Any felony violation of chapter 9A.83 RCW;  
39 (iii) Any felony violation of chapter 9.35 RCW;

1 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
2 when accomplished by color or aid of deception;

3 (v) Theft from a vulnerable adult under RCW 9A.56.400;

4 (vi) Trafficking in stolen property in the first or second degree  
5 under chapter 9A.82 RCW in which the stolen property is a motor  
6 vehicle or major component part of a motor vehicle as defined in RCW  
7 46.80.010; or

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

9 (f) The following offenses may not be prosecuted more than five  
10 years after its commission: Any class C felony under chapter 74.09,  
11 82.36, or 82.38 RCW.

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

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

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

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

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

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

31 (3) In any prosecution for a sex offense as defined in RCW  
32 9.94A.030, the periods of limitation prescribed in subsection (1) of  
33 this section run from the date of commission or (~~two~~) four years  
34 from the date on which the identity of the suspect is conclusively  
35 established by deoxyribonucleic acid testing or by photograph as  
36 defined in RCW 9.68A.011, whichever is later.

37 (4) If, before the end of a period of limitation prescribed in  
38 subsection (1) of this section, an indictment has been found or a  
39 complaint or an information has been filed, and the indictment,  
40 complaint, or information is set aside, then the period of limitation

1 is extended by a period equal to the length of time from the finding  
2 or filing to the setting aside.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02  
4 RCW to read as follows:

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

14 NEW SECTION. **Sec. 9.** Section 4 of this act takes effect July 1,  
15 2024.

16 NEW SECTION. **Sec. 10.** If specific funding for the purposes of  
17 this act, referencing this act by bill or chapter number, is not  
18 provided by June 30, 2023, in the omnibus appropriations act, this  
19 act is null and void.

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