
THIRD SUBSTITUTE HOUSE BILL 1579

State of Washington

68th Legislature

2024 Regular Session

By House Appropriations (originally sponsored by Representatives Stonier, Bateman, Lekanoff, Reed, Pollet, and Macri)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to establishing a mechanism for independent
2 prosecutions within the office of the attorney general of criminal
3 conduct arising from police use of force; amending RCW 43.10.230,
4 43.10.232, 43.10.234, 36.27.020, 36.27.030, 43.102.080, and
5 41.80.400; adding a new section to chapter 36.27 RCW; adding new
6 sections to chapter 43.10 RCW; creating a new section; and providing
7 an effective date.

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

9 **Sec. 1.** RCW 43.10.230 and 1981 c 335 s 1 are each amended to
10 read as follows:

11 The purpose of RCW 43.10.232 is to grant authority to the
12 attorney general concurrent with the county prosecuting attorneys to
13 investigate and prosecute crimes, including deaths from the use of
14 deadly force by an involved officer as those terms are defined in RCW
15 43.102.010. The purpose of RCW ((43.10.234)) 10.01.190 is to
16 ((insure)) ensure access by the attorney general to the procedural
17 powers of the various prosecuting attorneys in exercising criminal
18 prosecutorial authority granted in RCW 43.10.232 or otherwise granted
19 by the legislature.

1 **Sec. 2.** RCW 43.10.232 and 1986 c 257 s 16 are each amended to
2 read as follows:

3 (1) (a) The attorney general shall have concurrent authority and
4 power with the prosecuting attorneys to investigate crimes and
5 initiate and conduct prosecutions (~~upon the request of or with the~~
6 ~~concurrence of any of the following~~):

7 (~~(a) The~~) (i) Upon the request of or with the concurrence of
8 the county prosecuting attorney of the jurisdiction in which the
9 offense has occurred;

10 (~~(b) The~~) (ii) Upon the request of or with the concurrence of
11 the governor of the state of Washington; or

12 (~~(c) A majority of the committee charged with the oversight of~~
13 ~~the organized crime intelligence unit~~) (iii) As provided in
14 subsection (2) of this section.

15 (~~(2) Such~~) (b) A request or concurrence shall be communicated
16 in writing to the attorney general.

17 (~~(3)~~) (c) Prior to any prosecution by the attorney general
18 under (a) of this (section) subsection, the attorney general and
19 the county in which the offense occurred shall reach an agreement
20 regarding the payment of all costs, including expert witness fees,
21 and defense attorneys' fees associated with any such prosecution.

22 (2) (a) The attorney general's office of independent prosecutions
23 shall have concurrent authority and power with the prosecuting
24 attorneys to review investigations and initiate and conduct
25 prosecutions of applicable use of force cases, as defined in this
26 chapter. "Prosecution" includes appeals and requests for
27 postconviction relief.

28 (b) In any prosecution pursuant to this subsection, the attorney
29 general's office of independent prosecutions may prosecute related
30 offenses and defendants. Related offenses and defendants for purposes
31 of this subsection are those offenses and defendants that may be
32 joined in an information as provided by law or by the criminal rules
33 for the superior courts of the state of Washington. Related offenses
34 also include crimes arising from or discovered during the course of
35 the use of force investigation when such crimes have a relationship
36 to the use of force investigation or to a prosecution of the use of
37 force incident.

38 (c) Nothing in this subsection affects the authority of the
39 prosecuting attorney to conduct prosecutions of crimes committed by

1 an individual who is the subject of the use of force action by the
2 involved officer.

3 (d) The authority of the attorney general's office of independent
4 prosecutions under this subsection applies to any applicable use of
5 force case as defined in this chapter.

6 (e) The attorney general's office shall be responsible for its
7 expert witness fees and other costs of prosecution associated with
8 prosecutions it undertakes pursuant to this subsection. The attorney
9 general's office shall not be responsible for defense costs,
10 including defense attorneys' fees, defense expert witness fees, or
11 any other cost related to the defense in a criminal prosecution
12 brought pursuant to this subsection. Reimbursement for costs are
13 subject to the provisions of RCW 9A.16.046. The county in which the
14 action is filed shall be responsible for court administration costs
15 and public defense costs if the defendant so qualifies.

16 **Sec. 3.** RCW 43.10.234 and 1981 c 335 s 3 are each amended to
17 read as follows:

18 (1) If both a prosecuting attorney and the attorney general file
19 an information or indictment charging a defendant with substantially
20 the same offense(s), the court shall, upon motion of either the
21 prosecuting attorney or the attorney general:

22 ~~((1))~~ (a) Determine whose prosecution of the case will best
23 promote the interests of justice and enter an order designating that
24 person as the prosecuting authority in the case; and

25 ~~((2))~~ (b) Enter an order dismissing the information or
26 indictment filed by the person who was not designated the prosecuting
27 authority.

28 (2) For purposes of designating the prosecuting authority where
29 information or an indictment has been filed by both the office of the
30 attorney general pursuant to RCW 43.10.232(2) and the prosecuting
31 attorney pursuant to RCW 36.27.020, the court shall, in accordance
32 with section 4 of this act, prioritize the public's interest in
33 ensuring a fair and impartial prosecution and trial that is free from
34 bias or the appearance of bias, prejudice, or conflict of interest.
35 In any judicial proceeding under this subsection, in order to be
36 designated the prosecuting authority, the county prosecuting attorney
37 must overcome a presumption that the county prosecuting attorney has
38 an inherent conflict of interest in any applicable use of force case.

1 NEW SECTION. **Sec. 4.** FINDINGS. The legislature finds that the
2 Washington state Constitution provides that the legislature shall
3 prescribe the duties of both the attorney general and the county
4 prosecuting attorneys. The legislature finds that the close working
5 relationships and intertwined duties between local law enforcement
6 and local prosecutors can give the appearance of bias in review of
7 incidents of use of deadly force by Washington peace officers and
8 corrections officers.

9 In order to increase public confidence in the fairness of review
10 of investigations of incidents of use of deadly force by Washington
11 peace officers and corrections officers, and to ensure independence
12 and transparency in such reviews, the legislature finds it necessary
13 to create an office of independent prosecutions within the attorney
14 general's office. The legislature further finds that prosecutions by
15 the independent prosecutor will best promote the interests of
16 justice.

17 NEW SECTION. **Sec. 5.** CREATION. (1) Subject to the availability
18 of amounts appropriated for this specific purpose, the office of
19 independent prosecutions is hereby established within the office of
20 the attorney general for the purpose of reviewing investigations of
21 applicable use of force cases. The office is hereby authorized to
22 review such investigations, decline criminal charges when
23 appropriate, file criminal charges when appropriate, and prosecute
24 such cases to the conclusion of the case, including appeals and
25 collateral attacks.

26 (2)(a) The office shall be a separate division within the
27 attorney general's office. The office shall maintain policies and
28 procedures to ensure that personnel outside the office of independent
29 prosecutions with an actual and perceived conflict, including other
30 employees and divisions of the attorney general's office, shall be
31 screened from the investigation and prosecution of any case.

32 (b) To address the presumption of an inherent conflict of
33 interest, when the office receives a report from the office of
34 independent investigations in a matter in which the use of deadly
35 force was by a general authority peace officer at a state agency, an
36 employee of the department of corrections, an employee of a limited
37 authority law enforcement agency, or an employee of a police
38 department at a public institution of higher education, the office
39 shall contract pursuant to its authority under section 10 of this act

1 with a special assistant attorney general to perform or review
2 investigations and to prosecute if charged.

3 (3) The office shall have authority to adopt rules for the
4 maintaining of independent decision making and review of
5 investigations of applicable use of force cases.

6 NEW SECTION. **Sec. 6.** AUTHORITY OF ATTORNEY GENERAL REGARDING
7 OFFICE OF INDEPENDENT PROSECUTIONS. (1) The attorney general shall
8 determine the compensation and appoint a licensed attorney as
9 independent counsel to lead the office of independent prosecutions.
10 The independent counsel shall have final decision-making authority
11 for:

12 (a) Hiring and terminating personnel within the office of
13 independent prosecutions;

14 (b) Declining the filing of criminal charges after thorough
15 review of an applicable use of force case;

16 (c) Filing criminal charges after thorough review of an
17 applicable use of force case; and

18 (d) All aspects of the litigation of the office of independent
19 prosecutions.

20 (2) The attorney general may remove the independent counsel prior
21 to the expiration of the independent counsel's term for misconduct or
22 inability to perform duties. The attorney general shall otherwise be
23 screened from the work of the office of independent prosecutions. The
24 attorney general shall provide no input and have no decision-making
25 authority over whether criminal charges are filed after review of an
26 investigation of an applicable use of force case.

27 (3) The office of independent prosecutions shall be subject to
28 the policies and procedures applicable to employees of the attorney
29 general's office except where those policies and procedures conflict
30 with the duties of the office of independent prosecutions.

31 NEW SECTION. **Sec. 7.** OFFICE OF INDEPENDENT PROSECUTIONS
32 ADVISORY BOARD. (1)(a) There is created the office of independent
33 prosecutions advisory board. The advisory board shall consist of the
34 following members, appointed by the attorney general:

35 (i) Three members of the general public representing the
36 community who are not current or former law enforcement, with
37 preference given to individuals representing diverse communities;

1 (ii) Two members of the general public representing families
2 affected by an incident of the nature under the jurisdiction of the
3 office of independent prosecutions, who are not current or former law
4 enforcement;

5 (iii) One member representing a federally recognized tribe in
6 Washington, who is not current or former law enforcement;

7 (iv) One defense attorney representative;

8 (v) Two prosecuting attorney representatives; and

9 (vi) Two active or retired law enforcement personnel.

10 (b) The attorney general, when making appointments to the
11 advisory board, shall make appointments that reflect the cultural
12 diversity of the state of Washington.

13 (2) The attorney general shall select the independent counsel
14 from a list of three candidates recommended by the advisory board
15 unless the attorney general declines to select any of the candidates
16 provided. If the attorney general declines to select a candidate
17 proposed by the advisory board, the attorney general may request the
18 advisory board to provide additional qualified nominees for
19 consideration or may offer an alternative candidate who may be
20 appointed following approval by a majority of the advisory board.

21 (3) In consultation with the independent counsel, the advisory
22 board shall submit a report with related recommendations to the
23 legislature and the governor by November 1, 2026, concerning the
24 cases that have been reviewed by the independent counsel under this
25 chapter, any cases that have come before a judge under RCW 43.10.234,
26 the disposition and outcomes of such cases, and whether there are any
27 changes needed in state law to increase public confidence in the
28 handling of cases under this chapter. The advisory board must seek
29 input from the public in its preparation of this report.

30 NEW SECTION. **Sec. 8.** INDEPENDENT COUNSEL. (1) The independent
31 counsel must meet the following minimum criteria for consideration of
32 appointment by the attorney general:

33 (a) Licensure to practice law in the state of Washington;

34 (b) No documented criminal or disciplinary history involving
35 dishonesty, discrimination against persons of color or marginalized
36 communities, or abuse of power; and

37 (c) Submission to a background check, including an assessment of
38 criminal history and research of social media and affiliations to

1 check for racial bias and conflicts of interest, prior to appointment
2 by the attorney general.

3 (2) Should the independent counsel resign, become incapacitated,
4 or be removed as set forth in this chapter, the attorney general
5 shall appoint an interim independent counsel within 24 hours, which
6 person shall serve as independent counsel until such time as a new
7 independent counsel can be appointed.

8 (3) The independent counsel shall hold the office for a term of
9 three years and continue to hold office until reappointed or until
10 his or her successor is appointed.

11 NEW SECTION. **Sec. 9.** POWERS AND DUTIES OF INDEPENDENT COUNSEL.

12 (1) The independent counsel shall:

13 (a) Oversee the duties and functions of the office of independent
14 prosecutions pursuant to this chapter;

15 (b) Hire or contract with attorneys, investigators, advocates for
16 those subjected to deadly force and their surviving family members,
17 and other personnel as necessary to perform investigations and
18 prosecutions conducted by the office, and other duties as required
19 under this chapter;

20 (c) Plan and provide trainings for office personnel, including
21 hired or contracted attorneys and investigators, that promote
22 recognition of and respect for the diverse races, ethnicities, and
23 cultures of the state;

24 (d) Enter into contracts and memoranda of understanding as
25 necessary to implement the responsibilities of the office under this
26 chapter;

27 (e) Ensure that persons subjected to use of deadly force by an
28 involved officer, or their survivors, are kept apprised of the status
29 of the review of the investigation, any charging decisions, all court
30 hearings, and the status of any prosecution; and ensure that all
31 victims of charged crimes, or their surviving family members, are
32 afforded the rights set forth in RCW 7.69.030;

33 (f) Perform the duties and exercise the powers set forth in this
34 chapter, as well as any additional duties and powers that may be
35 prescribed; and

36 (g) Establish policies and procedures to ensure that personnel
37 with actual and apparent conflicts are screened from the review of
38 the investigation for criminal charges.

1 (2) The independent counsel or the independent counsel's
2 designees within the office shall make decisions pertaining to the
3 declining or filing of criminal charges independent of the attorney
4 general.

5 NEW SECTION. **Sec. 10.** PERSONNEL. (1) The independent counsel
6 may employ, or enter into contracts with, persons or entities as they
7 determine necessary for the proper discharge of the duties prescribed
8 to the independent counsel in this chapter.

9 (2) The independent counsel may employ assistant attorneys
10 general, or appoint and contract with special assistant attorneys
11 general, to perform or review investigations and prosecute charged
12 cases.

13 (3) The independent counsel may employ or contract for other
14 necessary personnel to perform the duties prescribed in this chapter
15 to include, but not limited to:

- 16 (a) Forensic services and crime scene investigators;
- 17 (b) Liaisons for community, family, and relations with tribal
18 nations and members;
- 19 (c) Analysts, including analysts to conduct evaluations on use of
20 force;
- 21 (d) Mental health experts;
- 22 (e) Bilingual staff, translators, or interpreters;
- 23 (f) Other experts as needed; and
- 24 (g) All staffing and other needs for the office of independent
25 prosecutions.

26 (4)(a) The independent counsel shall ensure training is provided
27 to staff and that there is a regular schedule for additional training
28 during the course of employment.

29 (b) The independent counsel shall ensure that the independent
30 counsel and the independent counsel's staff, including any contracted
31 personnel, engage in trainings that include the following topics:

- 32 (i) History of racism in policing, including tribal sovereignty
33 and history of Native Americans within the justice system;
- 34 (ii) Implicit and explicit bias;
- 35 (iii) Intercultural competency;
- 36 (iv) Use of a racial equity lens in conducting the work of the
37 office;
- 38 (v) Antiracism training;
- 39 (vi) Undoing institutional racism;

1 (vii) Criminal procedure, to include criminal discovery rules and
2 the prosecution's obligations under CrR 4.7 and *Brady v. Maryland*,
3 373 U.S. 83 (1963), and its progeny; and

4 (viii) Other relevant trainings as needed.

5 NEW SECTION. **Sec. 11.** APPOINTMENT OF ASSISTANT ATTORNEYS
6 GENERAL—SPECIAL AND TEMPORARY. The independent counsel may appoint
7 one or more assistant attorneys general and special assistant
8 attorneys general who shall have the same powers as prosecuting
9 attorneys to perform investigations and prosecutions conducted by the
10 office of independent prosecutions. Each appointment shall be in
11 writing, signed by the independent counsel.

12 NEW SECTION. **Sec. 12.** EMPLOYMENT OF LEGAL INTERNS.
13 Notwithstanding any other provision of this chapter, nothing in this
14 chapter shall prevent law students from working as volunteer or paid
15 legal interns or law clerks for the office of independent
16 prosecutions, or as otherwise authorized by statute or court rule.

17 NEW SECTION. **Sec. 13.** PUBLIC RECORDS ACT. (1)(a) The case
18 records of the office of independent prosecutions, and all
19 communications pertaining to same, are confidential and exempt from
20 disclosure under chapter 42.56 RCW until such time as:

21 (i) A decision has been made to decline criminal charges in a
22 particular case;

23 (ii) A charged case is dismissed;

24 (iii) A judge or jury returns a verdict of "not guilty"; or

25 (iv) Entry of judgment and sentence following a guilty plea or
26 verdict of guilty.

27 (b) After the occurrence of any of the events in (a) of this
28 subsection, the case records and related communications of the office
29 are subject to the provisions of chapter 42.56 RCW.

30 (2) If the independent counsel determines that a criminal charge
31 is not warranted in a case, the independent counsel shall issue a
32 public report that includes the results of the investigation and an
33 explanation of the reasons for the decision, and post the report on
34 the office of independent prosecutions' website.

35 NEW SECTION. **Sec. 14.** LIABILITY. No action or other proceeding
36 may be instituted against the independent counsel or the independent

1 counsel's employees or contractors, or a person exercising powers or
2 performing duties at the direction of the office of independent
3 prosecutions, for any act done in good faith in the execution or
4 intended execution of the person's duty or for any alleged neglect or
5 default in the execution in good faith of the person's duty.

6 NEW SECTION. **Sec. 15.** DEFINITIONS. For purposes of this
7 chapter, "applicable use of force case" means a case arising from
8 investigations of deaths conducted by the office of independent
9 investigations pursuant to RCW 43.102.030(1) (a) and (b).

10 **Sec. 16.** RCW 36.27.020 and 2016 c 173 s 7 are each amended to
11 read as follows:

12 The prosecuting attorney shall:

13 (1) Be legal adviser of the legislative authority, giving it his
14 or her written opinion when required by the legislative authority or
15 the chairperson thereof touching any subject which the legislative
16 authority may be called or required to act upon relating to the
17 management of county affairs;

18 (2) Be legal adviser to all county and precinct officers and
19 school directors in all matters relating to their official business,
20 and when required draw up all instruments of an official nature for
21 the use of said officers;

22 (3) Appear for and represent the state, county, and all school
23 districts subject to the supervisory control and direction of the
24 attorney general in all criminal and civil proceedings in which the
25 state or the county or any school district in the county may be a
26 party;

27 (4) (~~Prosecute~~) Subject to subsection (13) of this section,
28 prosecute all criminal and civil actions in which the state or the
29 county may be a party, defend all suits brought against the state or
30 the county, and prosecute actions upon forfeited recognizances and
31 bonds and actions for the recovery of debts, fines, penalties, and
32 forfeitures accruing to the state or the county;

33 (5) Attend and appear before and give advice to the grand jury
34 when cases are presented to it for consideration and draw all
35 indictments when required by the grand jury;

36 (6) Institute and prosecute proceedings before magistrates for
37 the arrest of persons charged with or reasonably suspected of
38 felonies when the prosecuting attorney has information that any such

1 offense has been committed and the prosecuting attorney shall for
2 that purpose attend when required by them if the prosecuting attorney
3 is not then in attendance upon the superior court;

4 (7) Carefully tax all cost bills in criminal cases and take care
5 that no useless witness fees are taxed as part of the costs and that
6 the officers authorized to execute process tax no other or greater
7 fees than the fees allowed by law;

8 (8) Receive all cost bills in criminal cases before district
9 judges at the trial of which the prosecuting attorney was not
10 present, before they are lodged with the legislative authority for
11 payment, whereupon the prosecuting attorney may retax the same and
12 the prosecuting attorney must do so if the legislative authority
13 deems any bill exorbitant or improperly taxed;

14 (9) Present all violations of the election laws which may come to
15 the prosecuting attorney's knowledge to the special consideration of
16 the proper jury;

17 (10) Examine once in each year the official bonds of all county
18 and precinct officers and report to the legislative authority any
19 defect in the bonds of any such officer;

20 (11) Seek to reform and improve the administration of criminal
21 justice and stimulate efforts to remedy inadequacies or injustice in
22 substantive or procedural law;

23 (12) Participate in the statewide sexual assault kit tracking
24 system established in RCW 43.43.545 for the purpose of tracking the
25 status of all sexual assault kits connected to criminal
26 investigations and prosecutions within the county. Prosecuting
27 attorneys shall begin full participation in the system according to
28 the implementation schedule established by the Washington state
29 patrol;

30 (13)(a) In any case involving potential prosecution of an
31 applicable use of force case as defined in section 15 of this act,
32 the prosecuting attorney shall determine if recusal is necessary
33 under the ethical rules applicable to all lawyers or to preserve
34 public confidence. In making this determination, the prosecuting
35 attorney must consider whether the presence of any of the following
36 would impact the determination as to whether criminal charges shall
37 be filed or prosecuted:

38 (i) The prosecuting attorney has a relationship with the involved
39 officer or the involved officer's employing agency, either personally

1 or professionally, such that the prosecuting attorney's decision or
2 pursuit of charges may be affected;

3 (ii) The prosecuting attorney has a duty to represent the
4 involved officer's employing agency in any civil action related to or
5 arising from the incident under consideration or criminally charged
6 and the prosecuting attorney's decision or pursuit of charges arising
7 from the police officer's use of deadly force may be affected by the
8 duty to defend;

9 (iii) There is a risk that the prosecuting attorney's ability to
10 consider, recommend, or carry out an appropriate course of action
11 will be limited as a result of the prosecuting attorney's other
12 responsibilities or interests; or

13 (iv) The case has been reopened by the office of independent
14 investigations under RCW 43.102.030.

15 (b) If the prosecuting attorney finds recusal is necessary under
16 (a) of this subsection, the prosecuting attorney must transfer the
17 case to the office of independent prosecutions in the attorney
18 general's office within 30 days of receiving the case from the office
19 of independent investigations under chapter 43.102 RCW.

20 (c) For the purposes of this subsection, "applicable use of force
21 case" has the meaning defined in section 15 of this act.

22 **Sec. 17.** RCW 36.27.030 and 2009 c 549 s 4046 are each amended to
23 read as follows:

24 ~~((When))~~ (1) Except as provided in subsection (3) of this
25 section, when from illness or other cause the prosecuting attorney is
26 temporarily unable to perform his or her duties, the court or judge
27 may appoint some qualified person to discharge the duties of such
28 officer in court until the disability is removed.

29 ~~((When))~~ (2) Except as provided in subsection (3) of this
30 section, when any prosecuting attorney fails, from sickness or other
31 cause, to attend a session of the superior court of his or her
32 county, or is unable to perform his or her duties at such session,
33 the court or judge may appoint some qualified person to discharge the
34 duties of such session, and the appointee shall receive a
35 compensation to be fixed by the court, to be deducted from the stated
36 salary of the prosecuting attorney, not exceeding, however, one-
37 fourth of the quarterly salary of the prosecuting attorney: PROVIDED,
38 That in counties wherein there is no person qualified for the
39 position of prosecuting attorney, or wherein no qualified person will

1 consent to perform the duties of that office, the judge of the
2 superior court shall appoint some suitable person, a duly admitted
3 and practicing attorney-at-law and resident of the state to perform
4 the duties of prosecuting attorney for such county, and he or she
5 shall receive such reasonable compensation for his or her services as
6 shall be fixed and ordered by the court, to be paid by the county for
7 which the services are performed.

8 (3) RCW 43.10.234(2) applies to any applicable use of force case
9 as defined in section 15 of this act, where the prosecuting attorney
10 has filed an information.

11 NEW SECTION. **Sec. 18.** A new section is added to chapter 36.27
12 RCW to read as follows:

13 If the prosecuting attorney makes a determination not to file
14 criminal charges in an applicable use of force case, the prosecuting
15 attorney must refer the case and all investigative materials
16 concerning the case to the office of independent prosecutions in the
17 office of the attorney general within 30 days of the decision to not
18 file criminal charges. For the purposes of this section, "applicable
19 use of force case" has the meaning defined in section 15 of this act.

20 **Sec. 19.** RCW 43.102.080 and 2021 c 318 s 308 are each amended to
21 read as follows:

22 (1) The office has jurisdiction over, and is authorized to
23 conduct investigations of, all cases and incidents as established
24 within this section.

25 (2)(a) The director may cause an investigation to be conducted
26 into any incident:

27 (i) Of a use of deadly force by an involved officer occurring
28 after July 1, 2022, including any incident involving use of deadly
29 force by an involved officer against or upon a person who is in-
30 custody or out-of-custody; or

31 (ii) Involving prior investigations of deadly force by an
32 involved officer if new evidence is brought forth that was not
33 included in the initial investigation.

34 (b) This section applies only if, at the time of the incident:

35 (i) The involved officer was on duty; or

36 (ii) The involved officer was off duty but:

1 (A) Engaged in the investigation, pursuit, detention, or arrest
2 of a person or otherwise exercising the powers of a general authority
3 or limited authority Washington peace officer; or

4 (B) The incident involved equipment or other property issued to
5 the official in relation to his or her duties.

6 (3) The director shall determine prioritization of investigations
7 based on resources and other criteria which may be established in
8 consultation with the advisory board. The director shall ensure that
9 incidents occurring after the date the office begins investigating
10 cases receive the highest priority for investigation.

11 (4) The investigation should include a review of the entire
12 incident, including but not limited to events immediately preceding
13 the incident that may have contributed to or influenced the outcome
14 of the incident that are directly related to the incident under
15 investigation.

16 (5) Upon receiving notification required in RCW 43.102.120 of an
17 incident under the jurisdiction of the office, the director:

18 (a) May cause the incident to be investigated in accordance with
19 this chapter;

20 (b) May determine investigation is not appropriate for reasons
21 including, but not limited to, the case not being in the category of
22 prioritized cases; or

23 (c) If the director determines that the incident is not within
24 the office's jurisdiction to investigate, the director shall decline
25 to investigate, and shall give notice of the fact to the involved
26 agency.

27 (6) If the director determines the case is to be investigated the
28 director will communicate the decision to investigate to the involved
29 agency and will thereafter be the lead investigative body in the case
30 and have priority over any other state or local agency investigating
31 the incident or a case that is under the jurisdiction of the office.
32 The director will implement the process developed pursuant to RCW
33 43.102.050 and conduct the appropriate investigation in accordance
34 with the process.

35 (7) In conducting the investigation the office shall have access
36 to reports and information necessary or related to the investigation
37 in the custody and control of the involved agency and any law
38 enforcement agency responding to the scene of the incident including,
39 but not limited to, voice or video recordings, body camera
40 recordings, and officer notes, as well as disciplinary and

1 administrative records except those that might be statements
2 conducted as part of an administrative investigation related to the
3 incident.

4 (8) The investigation shall be concluded within 120 days of
5 acceptance of the case for investigation. If the office is not able
6 to complete the investigation within 120 days, the director shall
7 report to the advisory board the reasons for the delay.

8 (9) (a) Upon the completion of an investigation authorized under
9 this chapter, the office shall send its completed investigation and
10 referral to both the county prosecuting attorney of the jurisdiction
11 in which the offense occurred and the office of independent
12 prosecutions in accordance with protocols established under RCW
13 43.102.050(2) (c) (viii), and include any information, if known,
14 regarding the presence of a conflict of interest.

15 (b) All employees of the office of independent investigations,
16 and all members of an independent investigations team who participate
17 in the investigation of a use of deadly force by an involved officer
18 as defined in RCW 43.102.010, are encouraged to cooperate fully with
19 requests for interviews or additional information from the office of
20 independent prosecutions.

21 (c) The office of independent investigations or a member of the
22 independent investigations team that investigated an incident of use
23 of deadly force that is the subject of a review for criminal charges
24 are encouraged to, at the request of the office of independent
25 prosecutions, transport evidence to and from any laboratory, medical
26 examiner's office, or expert witness as directed by the office of
27 independent prosecutions.

28 (d) The office of independent investigations or a member of the
29 independent investigations team that investigated an incident of use
30 of deadly force that is the subject of criminal trial proceedings are
31 encouraged to, at the request of the office of independent
32 prosecutions, transport evidence to court as directed by the office
33 of independent prosecutions.

34 **Sec. 20.** RCW 41.80.400 and 2019 c 145 s 2 are each amended to
35 read as follows:

36 (1) In addition to the agencies defined in RCW 41.80.005 and
37 subject to the provisions of this section, this chapter applies to
38 assistant attorneys general.

1 (2) (a) Assistant attorneys general who are not otherwise excluded
2 from bargaining under (b) of this subsection are granted the right to
3 collectively bargain.

4 (b) Division chiefs, deputy attorneys general, the solicitor
5 general, the independent counsel, assistant attorneys general in the
6 labor and personnel division, special assistant attorneys general,
7 confidential employees as defined in RCW 41.80.005, and any assistant
8 or deputy attorney general who reports directly to the attorney
9 general are excluded from this section and do not have the right to
10 collectively bargain.

11 (3) The only unit appropriate for the purpose of collective
12 bargaining under this chapter is a statewide unit of all assistant
13 attorneys general not otherwise excluded from bargaining.

14 (4) The governor or the governor's designee and an exclusive
15 bargaining representative shall negotiate one master collective
16 bargaining agreement for assistant attorneys general.

17 NEW SECTION. **Sec. 21.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 22.** If specific funding for the purposes of
22 this act, referencing this act by bill or chapter number, is not
23 provided by June 30, 2024, in the omnibus appropriations act, this
24 act is null and void.

25 NEW SECTION. **Sec. 23.** Sections 4 through 15 of this act are
26 each added to chapter 43.10 RCW.

27 NEW SECTION. **Sec. 24.** Sections 2, 3, 16, 17, 18, and 19 of this
28 act take effect January 1, 2026.

--- END ---