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**SUBSTITUTE SENATE BILL 5005**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Human Services (originally sponsored by Senators Saldaña, Frame, Hasegawa, Llias, Lovelett, Nobles, Orwall, Salomon, Valdez, Wellman, and C. Wilson)

READ FIRST TIME 01/30/25.

1 AN ACT Relating to the city, county, and regional jail system in  
2 Washington state; amending RCW 70.48.510; and adding a new chapter to  
3 Title 43 RCW.

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

5 NEW SECTION. **Sec. 1.** WASHINGTON JAIL COUNCIL—CREATION AND  
6 PURPOSE. Subject to the availability of funds appropriated for this  
7 specific purpose, there is hereby created the Washington jail council  
8 within the office of the governor. The purpose of the council is to  
9 promote jail transparency, support safe and humane conditions for  
10 jail employees and incarcerated individuals, encourage reform towards  
11 a more rehabilitative and therapeutic jail system, and reduce the  
12 exposure of jails to litigation.

13 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
14 section apply throughout this chapter unless the context clearly  
15 requires otherwise.

16 (1) "Council" means the Washington jail council.

17 (2) "Director" means the director of the Washington jail council.

18 (3) "Health care information" has the same meaning as in RCW  
19 70.02.010.

1 (4) "Health care provider" has the same meaning as in RCW  
2 70.02.010.

3 (5) "Incarcerated individual" means a person committed to the  
4 custody of a jail, including but not limited to persons residing in a  
5 jail and persons released from such facility on furlough, work  
6 release, or community custody, and persons received from another  
7 state, state agency, county, federally recognized tribe, federal  
8 jurisdiction, or other entity or jurisdiction.

9 (6) "Jail" means any holding, detention, special detention, or  
10 correctional facility as defined in RCW 70.48.020.

11 (7) "Jail administrator" means a city or county department of  
12 corrections or chief law enforcement officer responsible for the  
13 operation of a jail pursuant to RCW 70.48.090.

14 NEW SECTION. **Sec. 3.** APPOINTMENT AND REMOVAL OF COUNCILMEMBERS.

15 (1) The council shall be composed of seven members as follows:

16 (a) One person who is a current or former jail administrator;

17 (b) One person who is a current or former medical provider  
18 familiar with the needs of patients who have experienced  
19 incarceration and has not been employed by a state or county  
20 correctional or law enforcement agency in the last 10 years;

21 (c) One person who is a current or former behavioral health  
22 service provider familiar with the needs of patients who have  
23 experienced incarceration and has not been employed by a state or  
24 county correctional or law enforcement agency in the last 10 years;

25 (d) Two persons with lived experience being incarcerated in a  
26 Washington jail;

27 (e) One person who is a licensed attorney with a background in  
28 investigating or advocating matters related to enhancing Washington  
29 jail practices or conditions and has not been employed by a state or  
30 county correctional or law enforcement agency in the last 10 years;  
31 and

32 (f) One person who is a current or former jail employee.

33 (2) Members shall be appointed by the governor. Two of the  
34 initial members of the council shall be appointed for a term of one  
35 year, two for a term of two years, one for a term of three years, one  
36 for a term of four years, and one for a term of five years.  
37 Successors to the initial members shall be appointed for terms of  
38 five years each, except that any individual chosen to fill a vacancy

1 shall be appointed only for the unexpired term of the member whom the  
2 individual succeeds.

3 (3) Members shall be eligible for reappointment.

4 (4) The council shall elect a chair and vice chair from among its  
5 members.

6 (5) A vacancy on the council shall be filled by similar  
7 appointment for the remainder of the unexpired term, with the  
8 remaining members exercising all powers of the council during the  
9 period of vacancy.

10 (6) Any member of the council may only be removed by the governor  
11 for neglect of duty, misconduct, or the inability to perform duties,  
12 after being given a written statement of the charges and an  
13 opportunity to be heard at a public hearing thereon.

14 (7) Members of the council shall be compensated in accordance  
15 with RCW 43.03.240 and shall be reimbursed for their travel expenses  
16 incurred in the performance of their duties in accordance with RCW  
17 43.03.050 and 43.03.060.

18 NEW SECTION. **Sec. 4.** COUNCIL DIRECTOR. (1) Subject to the  
19 availability of funds appropriated for this specific purpose, the  
20 governor shall appoint a full-time director from a list of no fewer  
21 than three nominees submitted by the council unless the governor  
22 declines to select any of the candidates provided, in which case the  
23 governor may request additional candidates from the council or  
24 suggest candidates to the council for consideration.

25 (2) The director shall be a person of recognized judgment,  
26 integrity, and independence.

27 (3) The director shall hold office for a term of five years and  
28 shall continue to hold office until reappointed or until the  
29 appointment of their successor. The director may only be removed by  
30 the governor for neglect of duty, misconduct, or the inability to  
31 perform duties. Any vacancy must be filled by similar appointment for  
32 the remainder of the unexpired term.

33 (4) The director reports directly to the council.

34 (5) Subject to the appropriation of funds by the legislature, the  
35 director shall employ staff and make other expenditures necessary to  
36 complete the purposes of this chapter.

37 NEW SECTION. **Sec. 5.** POWERS AND DUTIES OF THE COUNCIL. (1) The  
38 council shall meet not less than once each quarter to make

1 recommendations, receive reports from the director, and transact  
2 business properly brought before the council.

3 (2) The council or its staff shall:

4 (a) Establish priorities for use of the limited resources  
5 available to the council;

6 (b) Maintain a website, mailing address, toll-free telephone  
7 number, and a collect telephone number for the receipt of complaints  
8 and inquiries and the sharing of information;

9 (c) Collect, analyze, and report information relating to the  
10 operation and conditions of Washington jails;

11 (d) Develop and administer a survey of jails at least annually;

12 (e) Monitor jails in Washington state for compliance with their  
13 own jail policies, standards, rules, or procedures, and whether those  
14 policies comply with applicable federal, state, and local laws,  
15 rules, regulations, and policies as related to the health, safety,  
16 and welfare of incarcerated individuals and staff;

17 (f) Write and publish reports that shall include nonidentifiable  
18 case studies or other information necessary to support any findings  
19 and any written response from a jail administrator or their designee  
20 to such reports;

21 (g) Serve as a member of all unexpected fatality review teams  
22 convened under RCW 70.48.510;

23 (h) Investigate and report on specific and systemic issues  
24 relating to jails including issues and trends identified through  
25 monitoring, complaints, fatality reviews, and the jail survey;

26 (i) Provide technical assistance and consultation including  
27 informational support to jail administrators or their designees;

28 (j) Share information with jail administrators or their designees  
29 regarding individual complaints or concerns within the discretion of  
30 the director or their designee and with the consent of the  
31 complainant;

32 (k) Provide public comment and testimony, write and issue reports  
33 and recommendations, share information, and make recommendations for  
34 statutory changes as appropriate to effectuate the purposes of this  
35 chapter;

36 (l) Adopt rules, policies, and procedures necessary to implement  
37 this chapter; and

38 (m) Submit an annual report to the governor and the legislature,  
39 in compliance with RCW 43.01.036, that includes a statement of  
40 actions taken by the council for the preceding year, and

1 recommendations for any statutory changes that the council deems  
2 necessary or desirable to accomplish the purposes of this chapter.

3 (3) The council is not required to investigate complaints or  
4 notify complainants of decisions or actions taken in response to a  
5 complaint. This chapter does not require incarcerated individuals to  
6 file a complaint with the council in order to exhaust available  
7 remedies for the purpose of the prison litigation reform act of 1995,  
8 P.L. 104-134.

9 (4) Any investigations conducted by the council should not  
10 interfere with or impede an ongoing criminal investigation being  
11 conducted by a law enforcement agency.

12 NEW SECTION. **Sec. 6.** ACCESS TO FACILITIES, INCARCERATED  
13 INDIVIDUALS, AND INFORMATION. (1) The director and the director's  
14 designees shall have:

15 (a) Reasonable access to all areas of jails accessible to or used  
16 by incarcerated individuals. Access by such individuals may be  
17 subject to reasonable security and background investigation  
18 requirements of the jail, provided that such access shall not be  
19 unreasonably withheld. Denial of access to such individuals with  
20 lived experience, including conviction or incarceration histories,  
21 who do not present active security concerns, shall be deemed  
22 unreasonable. Further, any initial background investigation of an  
23 individual under this section must be completed within 48 hours, and  
24 any subsequent investigation of the same individual must be performed  
25 promptly and shall not result in a delay of more than two hours;

26 (b) Reasonable opportunity to survey or interview privately and  
27 confidentially any incarcerated individual, jail employee, or other  
28 persons by mail, telephone, and in person;

29 (c) The ability to make audio and visual recordings of areas of  
30 jails accessible to or used by incarcerated individuals, provided  
31 that such visual recordings shall not depict the location or angles  
32 of security cameras; and

33 (d) The right to access, inspect, and copy any information,  
34 records, or documents in the possession or control of jail  
35 administrators or their agents that the council considers necessary  
36 to carry out its purpose or to support its recommendations.

37 (2) Following a written demand from the director or the  
38 director's designees for access to information, records, or  
39 documents, the jail must provide the information not later than 20

1 business days after the written demand. Where information pertains to  
2 a death, threats of bodily harm including, but not limited to, sexual  
3 or physical assaults, or the denial of necessary medical treatment,  
4 the information shall be provided within five days, unless the  
5 council consents to an extension of time.

6 (3) Upon notice and a request by the council, a state or local  
7 government agency or entity that has records that are relevant to a  
8 complaint or an investigation conducted by the council must provide  
9 the council with access to such records.

10 (4) A jail administrator or their designee shall provide a  
11 written response to a monitoring report issued by the council within  
12 one month of receiving the report.

13 (5) A jail administrator or their designee shall provide  
14 accurate, complete, and timely information and data for the jail  
15 survey in section 5 of this act.

16 NEW SECTION. **Sec. 7.** INFORMATION PROTECTION AND DISCLOSURE. (1)  
17 The council is a "health oversight agency" so that the federal health  
18 insurance portability and accountability act and chapter 70.02 RCW do  
19 not preclude jails, health care providers, or others from providing  
20 the information required by this section when requested by the  
21 council and, pursuant to these laws, jails, health care providers,  
22 and others are not required to seek or obtain consent from  
23 incarcerated individuals prior to providing the information required  
24 by this section in accordance with the requirements of this section.

25 (2) The information required by this section, when provided by a  
26 jail, health care provider, or other entity, becomes property of the  
27 council and is subject to all state and federal laws governing the  
28 confidentiality and disclosure of the files, records, and information  
29 maintained by the council. Information in the possession of the  
30 council shall be protected or disclosed according to state and  
31 federal law to the same extent as is required of the entity from whom  
32 the files, records, or information was received, including jails and  
33 providers of medical, mental health, and behavioral health services  
34 except as provided in this section.

35 (3) The council shall maintain the confidentiality of all matters  
36 under investigation, complaints, and the identities of complainants,  
37 informants, or witnesses except so far as disclosures may be  
38 determined necessary by the director or their designees to enable the  
39 council to carry out its duties or to support its recommendations.

1 Such information shall be exempt from public disclosure under chapter  
2 42.56 RCW.

3 (4) Neither the council or an employee of the council may be  
4 compelled, in any judicial or administrative proceeding, to testify  
5 or to produce evidence regarding the exercise of the official duties  
6 of the council or its employees. All related memoranda, work product,  
7 notes, and case files of the council are confidential, are not  
8 subject to discovery, judicial or administrative subpoena, or other  
9 method of legal compulsion, and are not admissible in evidence in a  
10 judicial or administrative proceeding.

11 (5) Nothing in this section shall prevent the council from  
12 publishing a report or database which maintains the confidentiality  
13 of the identities of incarcerated individuals.

14 (6) Nothing in this section shall prevent the council from  
15 reporting the results of an investigation which maintains the  
16 confidentiality of the identities of incarcerated individuals to  
17 responsible investigative or enforcement agencies should an  
18 investigation reveal information concerning a jail, its staff, or  
19 agents warranting possible sanctions or corrective action. Such  
20 information may be reported to agencies responsible for facility  
21 licensing or accreditation, employee discipline, employee licensing  
22 or certification, law enforcement, or criminal prosecution, provided  
23 that nothing in this act shall be deemed to reduce or modify the  
24 contractual, statutory, or due process rights of any jail employee  
25 with respect to any proceeding related to employee discipline,  
26 employee licensing or certification, or criminal prosecution.

27 (7) The director or their designee must contact the jail employee  
28 and the bargaining unit representative before reporting the results  
29 of an investigation that reveals information warranting possible  
30 sanctions or corrective action about a jail employee.

31 NEW SECTION. **Sec. 8.** CIVIL IMMUNITY—RETALIATORY ACTIONS. (1) A  
32 civil action may not be brought against any employee of the council  
33 for good faith performance of responsibilities under this chapter.

34 (2) No discriminatory, disciplinary, or retaliatory action may be  
35 taken against a jail employee, subcontractor, volunteer, incarcerated  
36 individual, or family member or representative of an incarcerated  
37 individual for any communication made, or information given or  
38 disclosed, to aid the office in carrying out its responsibilities.

1 (3) Every individual, legal entity, and agency of federal, state,  
2 or local government is immune from civil liability, whether direct or  
3 derivative, for providing information to the council in good faith.

4 (4) This section is not intended to infringe on the rights of an  
5 employer to supervise, discipline, or terminate an employee for other  
6 reasons.

7 **Sec. 9.** RCW 70.48.510 and 2021 c 139 s 3 are each amended to  
8 read as follows:

9 (1)(a) A city or county department of corrections or chief law  
10 enforcement officer responsible for the operation of a jail shall  
11 conduct an unexpected fatality review in any case in which the death  
12 of an individual confined in the jail is unexpected.

13 (b) The city or county department of corrections or chief law  
14 enforcement officer shall convene an unexpected fatality review team  
15 and determine the membership of the review team. The team shall  
16 comprise of the director of the Washington jail council or their  
17 designee in accordance with section 5 of this act and individuals  
18 with appropriate expertise including, but not limited to, individuals  
19 whose professional expertise is pertinent to the dynamics of the  
20 case. The city or county department of corrections or chief law  
21 enforcement officer shall ensure that the unexpected fatality review  
22 team is made up of individuals who had no previous involvement in the  
23 case.

24 (c) The primary purpose of the unexpected fatality review shall  
25 be the development of recommendations to the governing unit with  
26 primary responsibility for the operation of the jail and legislature  
27 regarding changes in practices or policies to prevent fatalities and  
28 strengthen safety and health protections for individuals in custody.

29 (d) Upon conclusion of an unexpected fatality review required  
30 pursuant to this section, the city or county department of  
31 corrections or chief law enforcement officer shall, within 120 days  
32 following the fatality, issue a report on the results of the review,  
33 unless an extension has been granted by the chief executive or, if  
34 appropriate, the county legislative authority of the governing unit  
35 with primary responsibility for the operation of the jail. Reports  
36 must be distributed to the governing unit with primary responsibility  
37 for the operation of the jail and appropriate committees of the  
38 legislature, and the department of health shall create a public  
39 website where all unexpected fatality review reports required under

1 this section must be posted and maintained. An unexpected fatality  
2 review report completed pursuant to this section is subject to public  
3 disclosure and must be posted on the department of health public  
4 website, except that confidential information may be redacted by the  
5 city or county department of corrections or chief law enforcement  
6 officer consistent with the requirements of applicable state and  
7 federal laws.

8 (e) The city or county department of corrections or chief law  
9 enforcement officer shall develop and implement procedures to carry  
10 out the requirements of this section.

11 (2) In any review of an unexpected fatality, the city or county  
12 department of corrections or chief law enforcement officer and the  
13 unexpected fatality review team shall have access to all records and  
14 files regarding the person or otherwise relevant to the review that  
15 have been produced or retained by the agency.

16 (3)(a) An unexpected fatality review completed pursuant to this  
17 section is subject to discovery in a civil or administrative  
18 proceeding, but may not be admitted into evidence or otherwise used  
19 in a civil or administrative proceeding except pursuant to this  
20 section.

21 (b) An employee of a city or county department of corrections or  
22 law enforcement employee responsible for conducting an unexpected  
23 fatality review, or member of an unexpected fatality review team, may  
24 not be examined in a civil or administrative proceeding regarding:

25 (i) The work of the unexpected fatality review team; (ii) the  
26 incident under review; (iii) his or her statements, deliberations,  
27 thoughts, analyses, or impressions relating to the work of the  
28 unexpected fatality review team or the incident under review; or (iv)  
29 the statements, deliberations, thoughts, analyses, or impressions of  
30 any other member of the unexpected fatality review team, or any  
31 person who provided information to the unexpected fatality review  
32 team relating to the work of the unexpected fatality review team or  
33 the incident under review.

34 (c) Documents prepared by or for an unexpected fatality review  
35 team are inadmissible and may not be used in a civil or  
36 administrative proceeding, except that any document that exists  
37 before its use or consideration in an unexpected fatality review, or  
38 that is created independently of such review, does not become  
39 inadmissible merely because it is reviewed or used by an unexpected  
40 fatality review team. A person is not unavailable as a witness merely

1 because the person has been interviewed by, or has provided a  
2 statement for, an unexpected fatality review, but if the person is  
3 called as a witness, the person may not be examined regarding the  
4 person's interactions with the unexpected fatality review including,  
5 without limitation, whether the person was interviewed during such  
6 review, the questions that were asked during such review, and the  
7 answers that the person provided during such review. This section may  
8 not be construed as restricting the person from testifying fully in  
9 any proceeding regarding his or her knowledge of the incident under  
10 review.

11 (d) The restrictions set forth in this section do not apply in a  
12 licensing or disciplinary proceeding arising from an agency's effort  
13 to revoke or suspend the license of any licensed professional based  
14 in whole or in part upon allegations of wrongdoing in connection with  
15 an unexpected fatality reviewed by an unexpected fatality review  
16 team.

17 (4) No provision of this section may be interpreted to require a  
18 jail to disclose any information in a report that would, as  
19 determined by the jail, reveal security information about the jail.

20 (5) For the purposes of this section:

21 (a) "City or county department of corrections" means a department  
22 of corrections created by a city or county to be in charge of the  
23 jail and all persons confined in the jail pursuant to RCW 70.48.090.

24 (b) "Chief law enforcement officer" means the chief law  
25 enforcement officer who is in charge of the jail and all persons  
26 confined in the jail if no department of corrections was created by a  
27 city or county pursuant to RCW 70.48.090.

28 (c) "Unexpected fatality review" means a review of any death that  
29 was not the result of a diagnosed or documented terminal illness or  
30 other debilitating or deteriorating illness or condition where the  
31 death was anticipated, and includes the death of any person under the  
32 care and custody of the city or county department of corrections or  
33 chief local enforcement officer, regardless of where the death  
34 actually occurred. A review must include an analysis of the root  
35 cause or causes of the unexpected fatality, and an associated  
36 corrective action plan for the jail to address identified root causes  
37 and recommendations made by the unexpected fatality review team under  
38 this section.

1        NEW SECTION.    **Sec. 10.**    Sections 1 through 8 of this act  
2    constitute a new chapter in Title 43 RCW.

--- **END** ---