
SUBSTITUTE SENATE BILL 5584

State of Washington

69th Legislature

2025 Regular Session

By Senate Law & Justice (originally sponsored by Senators Dhingra, Saldaña, Frame, Hasegawa, Nobles, Slatter, Trudeau, Valdez, and C. Wilson)

READ FIRST TIME 02/07/25.

1 AN ACT Relating to establishing the position of independent
2 prosecutor within the office of the governor; amending RCW 36.27.020,
3 43.102.050, and 10.114.011; and adding new sections to chapter 43.06
4 RCW.

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

6 NEW SECTION. **Sec. 1.** The position of independent prosecutor is
7 hereby established within the office of the governor for the purpose
8 of conducting fair, thorough, transparent, and competent reviews of
9 use of deadly force by an involved officer cases that result in a
10 death, making final determinations on whether criminal charges should
11 be filed.

12 NEW SECTION. **Sec. 2.** (1) The governor shall determine the
13 compensation and appoint a licensed attorney to serve as the
14 independent prosecutor.

15 (2) The independent prosecutor must meet the following minimum
16 criteria for appointment:

17 (a) Admission to practice law in the state of Washington;

18 (b) No documented criminal or disciplinary history involving
19 dishonesty, discrimination against persons of color or marginalized
20 communities, or abuse of power; and

1 (c) Submission to a background check, including an assessment of
2 criminal history and research of social media and affiliations to
3 check for racial bias and conflicts of interest.

4 (3) The governor may remove the independent prosecutor prior to
5 the expiration of the independent prosecutor's term of service for
6 misconduct or the inability to perform the duties of the office.

7 (4) Should the independent prosecutor resign, become
8 incapacitated, or be removed as set forth in this section, the
9 governor shall appoint an interim independent prosecutor within 24
10 hours, who shall serve as the independent prosecutor until such time
11 as the governor appoints a new independent prosecutor.

12 (5) The independent prosecutor shall hold the position for a term
13 of three years and continue to hold the position until reappointed or
14 until a successor is appointed.

15 NEW SECTION. **Sec. 3.** Upon request of the governor, the
16 independent prosecutor shall prosecute use of deadly force by an
17 involved officer cases that result in death. The independent
18 prosecutor is authorized to conduct prosecutions of use deadly force
19 cases that result in death, including any incident involving use of
20 deadly force by an involved officer against or upon a person who is
21 in custody or out of custody in the name of the governor.

22 NEW SECTION. **Sec. 4.** (1) The independent prosecutor shall have
23 concurrent authority and power with the county prosecuting attorneys
24 to initiate and conduct prosecutions of use of deadly force by an
25 involved officer cases that result in death including appeals and
26 requests for postconviction relief upon the request of the governor
27 of the state of Washington. Such request shall be communicated in
28 writing to the independent prosecutor.

29 (2) In any prosecution pursuant to this chapter, the independent
30 prosecutor may prosecute related offenses and defendants. Related
31 offenses and defendants are those offenses and defendants that may be
32 joined in an information as provided by law or by the criminal rules
33 for superior courts of the state of Washington. Related offenses also
34 include crimes arising from or discovered in the course of use of
35 force investigations when such crimes have a relationship to the use
36 of force investigation or prosecution.

37 (3) Nothing in this section affects the authority of the county
38 prosecuting attorney to conduct prosecutions of crimes committed by

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

3 (4) The independent prosecutor shall be responsible for expert
4 witness fees and other associated costs of prosecution. The
5 independent prosecutor shall not be responsible for defense costs,
6 including defense attorneys' fees, defense expert witness fees, or
7 any other costs related to the defense in a criminal prosecution
8 initiated by the office. Reimbursement for costs is subject to the
9 provisions of RCW 9A.16.046. The county in which the action is filed
10 shall be responsible for court administration costs and public
11 defense costs if the defendant so qualifies.

12 (5) If the office of the attorney general, a county prosecuting
13 attorney, and the independent prosecutor file competing informations
14 or indictments charging a defendant with substantially the same
15 offense(s), the court shall, upon motion of either the attorney
16 general, the county prosecuting attorney, or the independent
17 prosecutor:

18 (a) Determine whose prosecution of the case will best promote the
19 interests of justice, prioritize the public's interest in ensuring a
20 fair and impartial prosecution and trial free from bias or the
21 appearance of bias, and enter an order designating that person as the
22 prosecuting authority in the case; and

23 (b) Enter an order dismissing the information or indictment filed
24 by the person who was not designated the prosecuting authority.

25 NEW SECTION. **Sec. 5.** (1) The independent prosecutor shall
26 conduct reviews of referred investigations related to use of deadly
27 force cases that result in a death.

28 (2) Upon completing a fair, thorough, transparent, and competent
29 review of a referred investigation, the independent prosecutor shall
30 make a determination of whether criminal charges should be filed and
31 shall provide such determination in writing to the attorney general
32 and the prosecuting authority of the jurisdiction in which the
33 incident under investigation occurred.

34 (3) Beginning July 31, 2026, and annually thereafter, the
35 independent prosecutor shall provide the appropriate committees of
36 the legislature a written report detailing the following:

37 (a) The number of investigations reviewed by the independent
38 prosecutor;

1 (b) The number of investigations referred to the prosecuting
2 attorney to initiate criminal prosecutions;

3 (c) The number of investigations in which the independent
4 prosecutor declined to refer to the prosecuting attorney; and

5 (d) In circumstances where the independent prosecutor declined to
6 file charges, the results of the investigation and an explanation of
7 the reasons for the decision.

8 NEW SECTION. **Sec. 6.** POWERS AND DUTIES OF THE INDEPENDENT
9 PROSECUTOR. (1) The independent prosecutor shall hire or contract
10 with attorneys and other personnel as necessary to pursue
11 prosecutions and comply with other duties required under this
12 chapter.

13 (2) The independent prosecutor shall ensure that persons
14 subjected to use of force by an involved officer, or their survivors,
15 are kept apprised of the status of the review of the investigation,
16 any charging decisions, all court hearings, and the status of any
17 prosecution, including access to press conferences and advance notice
18 of media releases; and ensure that all victims of charged crimes, or
19 their surviving family members, are afforded the rights set forth in
20 RCW 7.69.030.

21 (3) The independent prosecutor shall perform the duties and
22 exercise the powers set forth in this chapter, as well as any
23 additional duties and powers that may be prescribed.

24 NEW SECTION. **Sec. 7.** APPOINTMENT OF ASSISTANT INDEPENDENT
25 PROSECUTORS—SPECIAL AND TEMPORARY. The independent prosecutor may
26 appoint one or more assistant independent prosecutors and special
27 assistant independent prosecutors who shall have the same powers as
28 the independent prosecutor to perform investigations and prosecutions
29 conducted by the office. Each appointment shall be in writing, signed
30 by the independent prosecutor.

31 NEW SECTION. **Sec. 8.** EMPLOYMENT OF LEGAL INTERNS.
32 Notwithstanding any other provision of this chapter, nothing in this
33 chapter shall prevent law students from working as volunteer or paid
34 legal interns or law clerks for the independent prosecutor, or as
35 otherwise authorized by statute or court rule.

1 NEW SECTION. **Sec. 9.** LIABILITY. No action or other proceeding
2 may be instituted against the independent prosecutor or the
3 independent prosecutor's assistant independent prosecutors or
4 contractors, or a person exercising powers or performing duties at
5 the direction of the independent prosecutor, for any act done in good
6 faith in the execution or intended execution of the person's duty or
7 for any alleged neglect or default in the execution in good faith of
8 the person's duty.

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

11 The prosecuting attorney shall:

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

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

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

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

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

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

1 that purpose attend when required by them if the prosecuting attorney
2 is not then in attendance upon the superior court;

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

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

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

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

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

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

29 (13)(a) Within 30 days of receiving an investigation of a fatal
30 use of deadly force by an involved officer who is employed within the
31 boundaries of the county, determine if recusal is necessary under the
32 ethical rules applicable to all lawyers or to preserve public
33 confidence.

34 (b) If the prosecuting attorney finds recusal is necessary under
35 (a) of this subsection, the prosecuting attorney must notify in
36 writing the independent prosecutor established in section 1 of this
37 act of the decision within 30 days.

38 (c) If the prosecuting attorney declines to file criminal charges
39 after reviewing an investigation of a use of deadly force by an
40 involved officer case, the prosecuting attorney must notify in

1 writing the independent prosecutor established in section 1 of this
2 act within 30 days of the decision.

3 **Sec. 11.** RCW 43.102.050 and 2024 c 64 s 2 are each amended to
4 read as follows:

5 (1) The director shall:

6 (a) Oversee the duties and functions of the office and
7 investigations conducted by the office pursuant to this chapter;

8 (b) Hire or contract with investigators and other personnel as
9 the director considers necessary to perform investigations conducted
10 by the office, and other duties as required, under this chapter;

11 (c) Plan and provide trainings for office personnel, including
12 contracted investigators, that promote recognition of and respect
13 for, the diverse races, ethnicities, and cultures of the state;

14 (d) Plan and provide training for advisory board members
15 including training to utilize an antiracist lens in their duties as
16 advisory board members;

17 (e) Publish reports of investigations conducted under this
18 chapter;

19 (f) Enter into contracts and memoranda of understanding as
20 necessary to implement the responsibilities of the office under this
21 chapter;

22 (g) Adopt rules in accordance with chapter 34.05 RCW and perform
23 all other functions necessary and proper to carry out the purposes of
24 this chapter;

25 (h) Develop the nondisclosure agreement required in RCW
26 43.102.130; and

27 (i) Perform the duties and exercise the powers that are set out
28 in this chapter, as well as any additional duties and powers that may
29 be prescribed.

30 (2) No later than February 1, 2022, in consultation with the
31 advisory board, the director shall develop a plan to implement:

32 (a) Regional investigation teams and a system for promptly
33 responding to incidents of deadly force under the jurisdiction of the
34 office. The regional investigation teams should:

35 (i) Allow for prompt response to the incident requiring
36 investigation; and

37 (ii) Include positions for team members who are not required to
38 be designated as limited authority Washington peace officers;

1 (b) A system and requirements for involved agencies to notify the
2 office of any incident under the jurisdiction of the office, which
3 must include direction to agencies as to what incidents of force and
4 injuries and other circumstances must be reported to the office,
5 including the timing of such reports, provided that any incident
6 involving substantial bodily harm, great bodily harm, or death is
7 reported to the office immediately in accordance with RCW 43.102.120;

8 (c) The process to conduct investigations of cases under the
9 jurisdiction of the office including, but not limited to:

10 (i) The office intake process following notification of an
11 incident by an involved agency;

12 (ii) The assessment and response to the notification of the
13 incident by the office, including direction to and coordination with
14 the independent investigation team;

15 (iii) Determination and deployment of necessary resources for the
16 regional investigation teams to conduct the investigations;

17 (iv) Determination of any conflicts with office investigators or
18 others involved in the investigation to ensure no investigator has an
19 existing conflict with an assigned case;

20 (v) Protocol and direction to the involved agency;

21 (vi) Protocol and direction to the independent investigation
22 team;

23 (vii) Protocol and guidelines for contacts and engagement with
24 the involved agency; and

25 (viii) Protocol for finalizing the completed investigation and
26 referral to the local entity responsible for the prosecutorial
27 decision and to the independent prosecutor established in section 1
28 of this act, including communication with the family and public
29 regarding the completion of the investigation;

30 (d) A plan for the office's interaction, communications, and
31 responsibilities to: The involved officer; the individual who is the
32 subject of the action by the involved officer that is the basis of
33 the case under investigation, and their families; the public; and
34 other interested parties or stakeholders. The plan must consider the
35 following:

36 (i) A process for consultation, notifications, and communications
37 with the person, family, or representative of any person who is the
38 subject of the action by the involved officer that is the basis of
39 the case under investigation;

1 (ii) Translation services which may be utilized through employees
2 or contracted services;

3 (iii) Support to access assistance or services to the extent
4 possible; and

5 (iv) A process for situations in which a tribal member is
6 involved in the case that ensures consultation with the federally
7 recognized tribe, and notification of the governor's office of Indian
8 affairs within 24 hours in cases of deadly use of force;

9 (e) Training for employees and contractors of the office to begin
10 prior to July 1, 2022; and

11 (f) Prioritization of cases for investigation.

12 (3) No later than December 1, 2025, in consultation with the
13 advisory board, the director shall develop a proposal for training
14 individuals who are nonlaw enforcement officers to conduct competent,
15 thorough investigations of cases under the jurisdiction of the
16 office. The proposal must establish a training plan with an objective
17 that within five years of the date the office begins investigating
18 deadly force cases the cases will be investigated by nonlaw
19 enforcement officers. The director shall report such proposal to the
20 governor and legislature by December 1, 2025. Any proposal offered by
21 the director must ensure investigations are high quality, thorough,
22 and competent.

23 (4) The director, in consultation with the advisory board, shall
24 implement a plan to review prior investigations of deadly force by an
25 involved officer if new evidence is brought forth that was not
26 included in the initial investigation and investigate if determined
27 appropriate based on the review. The director must prioritize the
28 review or investigation of prior investigations based on resources
29 and other cases under investigation with the office. Incidents
30 occurring after the date the office begins investigating cases will
31 receive the highest priority for investigation.

32 **Sec. 12.** RCW 10.114.011 and 2021 c 318 s 401 are each amended to
33 read as follows:

34 Except as required by federal consent decree, federal settlement
35 agreement, or federal court order, where the use of deadly force by a
36 peace officer results in death, substantial bodily harm, or great
37 bodily harm, an independent investigation must be completed to inform
38 any determination of whether the use of deadly force met the good
39 faith standard established in RCW 9A.16.040 and satisfied other

1 applicable laws and policies. The investigation must be completely
2 independent of the agency whose officer was involved in the use of
3 deadly force and conducted in accordance with chapter 43.102 RCW. Any
4 rules adopted by the criminal justice training commission must be
5 consistent with chapter 43.102 RCW.

6 Any entity conducting such an investigation of the use of deadly
7 force by a peace officer that results in death shall provide the
8 completed investigation to the entity responsible for the
9 prosecutorial decision and the independent prosecutor established in
10 section 1 of this act.

11 NEW SECTION. **Sec. 13.** Sections 1 through 9 of this act are each
12 added to chapter 43.06 RCW.

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