
SUBSTITUTE HOUSE BILL 1088

State of Washington

67th Legislature

2021 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Lovick, Goodman, Fitzgibbon, J. Johnson, Slatter, Wylie, Ramos, Bateman, Berry, Dolan, Tharinger, Simmons, Ryu, Ramel, Shewmake, Leavitt, Senn, Peterson, Gregerson, Valdez, Callan, Chopp, Duerr, Ormsby, Taylor, Lekanoff, Santos, Macri, Frame, Orwall, Berg, Pollet, and Harris-Talley)

READ FIRST TIME 02/02/21.

1 AN ACT Relating to potential impeachment disclosures; and adding
2 a new section to chapter 10.93 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.93
5 RCW to read as follows:

6 (1)(a) No later than six months after the effective date of this
7 section, the Washington association of prosecuting attorneys, in
8 consultation with the Washington state association of municipal
9 attorneys, Washington association of sheriffs and police chiefs,
10 Washington council of police and sheriffs, fraternal order of police,
11 and Washington state patrol troopers association, shall update its
12 best practices policy addressing potential impeachment disclosures
13 pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and subsequent
14 case law. The policy must provide guidance for: (i) The types of
15 conduct that should be recognized as potentially exculpatory or as
16 creating potential impeachment material; (ii) how information about
17 an officer or officer conduct should be shared and maintained; and
18 (iii) under what circumstances an officer's information or name may
19 be removed from any list of potential impeachment disclosures.

20 (b) Subject to amounts appropriated for this purpose, no later
21 than June 30, 2022, the Washington association of prosecuting

1 attorneys shall develop and thereafter maintain online training for
2 potential impeachment disclosures consistent with its best practices
3 policy.

4 (2)(a) A law enforcement agency shall report the following
5 information to the prosecuting authority of any jurisdiction in which
6 the officer may testify as a witness:

7 (i) Any act by the officer that may be potentially exculpatory to
8 a criminal defendant; and

9 (ii) Misconduct that the officer has engaged in that affects his
10 or her credibility.

11 (b) The law enforcement agency shall report the information
12 within 10 days of the discovery of the act under (a)(i) of this
13 subsection or the misconduct under (a)(ii) of this subsection.

14 (3)(a) Prior to hiring any peace officer with previous law
15 enforcement experience, a law enforcement agency must inquire as to
16 whether the officer has ever been subject to potential impeachment
17 disclosure. The agency shall verify the officer's response with the
18 prosecuting authorities in the jurisdictions of the officer's
19 previous employment. The fact that an officer has been subject to
20 impeachment disclosure is not, in and of itself, a bar to employment.
21 Any prehiring process or hiring decision by an agency does not
22 constitute a personnel action under RCW 10.93.150.

23 (b) Within 10 days of hiring an officer with a prior potential
24 impeachment disclosure, the law enforcement agency shall forward that
25 information to the prosecuting authority of any jurisdiction in which
26 the officer may testify as a witness.

--- END ---