
SENATE BILL 5584

State of Washington

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By Senators Dhingra, Saldaña, Frame, Hasegawa, Nobles, Slatter, Trudeau, Valdez, and C. Wilson

Read first time 01/30/25. Referred to Committee on Law & Justice.

1 AN ACT Relating to expanding the office of independent
2 investigations to include prosecutions of criminal conduct within the
3 jurisdiction of the office of independent investigations and
4 prosecutions; amending RCW 43.102.020, 43.102.030, 43.102.050,
5 43.102.060, 43.102.080, 43.102.130, and 43.10.090; reenacting and
6 amending RCW 43.102.010; and adding new sections to chapter 43.102
7 RCW.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.102
10 RCW to read as follows:

11 (1) The office shall have concurrent authority and power with the
12 county prosecuting attorneys to investigate crimes and initiate and
13 conduct prosecutions of use of deadly force by an involved officer
14 cases and other cases under the jurisdiction of the office including
15 appeals and requests for postconviction relief.

16 (2) In any prosecution pursuant to this chapter, the office may
17 prosecute related offenses and defendants. Related offenses and
18 defendants are those offenses and defendants that may be joined in an
19 information as provided by law or by the criminal rules for superior
20 courts of the state of Washington. Related offenses also include
21 crimes arising from or discovered in the course of use of force

1 investigations when such crimes have a relationship to the use of
2 force investigation or prosecution.

3 (3) Nothing in this section affects the authority of the county
4 prosecuting attorney to conduct prosecutions of crimes committed by
5 an individual who is the subject of a use of force action by the
6 involved officer.

7 (4) The office shall be responsible for its expert witness fees
8 and other associated costs of prosecution. The office shall not be
9 responsible for defense costs, including defense attorneys' fees,
10 defense expert witness fees, or any other costs related to the
11 defense in a criminal prosecution initiated by the office.
12 Reimbursement for costs is subject to the provisions of RCW
13 9A.16.046. The county in which the action is filed shall be
14 responsible for court administration costs and public defense costs
15 if the defendant so qualifies.

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

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

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

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.102
29 RCW to read as follows:

30 (1) The director shall determine the compensation and appoint a
31 licensed attorney to serve as the independent prosecutor within nine
32 months of the effective date of this section. The independent
33 prosecutor shall have final decision-making authority related to:

34 (a) Hiring and terminating deputy independent prosecuting
35 attorneys and related support staff within the office;

36 (b) Filing or declining to file criminal charges after thorough
37 review of cases within the jurisdiction of the office; and

38 (c) All aspects of litigating cases within the jurisdiction of
39 the office.

1 (2) The director may remove the independent prosecutor prior to
2 the expiration of the independent prosecutor's term of service for
3 misconduct or the inability to perform the duties of the office.

4 (3) The independent prosecutor must meet the following minimum
5 criteria for appointment by the director:

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

7 (b) No documented criminal or disciplinary history involving
8 dishonesty, discrimination against persons of color or marginalized
9 communities, or abuse of power; and

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

13 (4) Should the independent prosecutor resign, become
14 incapacitated, or be removed as set forth in this chapter, the
15 director shall appoint an interim independent prosecutor within 24
16 hours, who shall serve as the independent prosecutor until such time
17 as the director appoints a new independent prosecutor.

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

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.102
22 RCW to read as follows:

23 **POWERS AND DUTIES OF THE INDEPENDENT PROSECUTOR.** (1) The
24 independent prosecutor shall hire or contract with attorneys and
25 other personnel as necessary to pursue prosecutions conducted by the
26 office and other duties required under this chapter;

27 (2) The independent prosecutor shall ensure that persons
28 subjected to use of force by an involved officer, or their survivors,
29 are kept apprised of the status of the review of the investigation,
30 any charging decisions, all court hearings, and the status of any
31 prosecution, including access to press conferences and advance notice
32 of media releases; and ensure that all victims of charged crimes, or
33 their surviving family members, are afforded the rights set forth in
34 RCW 7.69.030;

35 (3) The independent prosecutor shall perform the duties and
36 exercise the powers set forth in this chapter, as well as any
37 additional duties and powers that may be prescribed; and

38 (4) The independent prosecutor shall establish policies and
39 procedures to ensure that personnel with actual and apparent

1 conflicts are screened from the review of the investigation and
2 prosecution of criminal charges.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.102
4 RCW to read as follows:

5 **APPOINTMENT OF ASSISTANT INDEPENDENT PROSECUTORS—SPECIAL AND**
6 **TEMPORARY.** The independent prosecutor may appoint one or more
7 assistant independent prosecutors and special assistant independent
8 prosecutors who shall have the same powers as the independent
9 prosecutor to perform investigations and prosecutions conducted by
10 the office. Each appointment shall be in writing, signed by the
11 independent prosecutor.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.102
13 RCW to read as follows:

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

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.102
19 RCW to read as follows:

20 **PUBLIC REPORT.** If the independent prosecutor declines to file
21 charges after reviewing an investigation of a fatal use of deadly
22 force, as defined in RCW 43.102.010, the independent prosecutor shall
23 issue a written report that includes the results of the investigation
24 and an explanation of the reasons for the decision. This report shall
25 be posted to a public website.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.102
27 RCW to read as follows:

28 **LIABILITY.** No action or other proceeding may be instituted
29 against the independent prosecutor or the independent prosecutor's
30 assistant independent prosecutors or contractors, or a person
31 exercising powers or performing duties at the direction of the
32 office, for any act done in good faith in the execution or intended
33 execution of the person's duty or for any alleged neglect or default
34 in the execution in good faith of the person's duty.

1 **Sec. 8.** RCW 43.102.010 and 2024 c 64 s 1 are each reenacted and
2 amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "911 communications center(~~(+)~~)" for purposes of this
6 chapter(~~(+)~~) means a public safety answering point or any other
7 entity that captures and maintains data that is utilized in a 911
8 emergency communications system, as defined in RCW 38.52.010.

9 (2) "Advisory board" means the office of independent
10 investigations and prosecutions advisory board.

11 (3) "Deadly force" has the meaning provided in RCW 9A.16.010.

12 (4) "Director" means the director of the office of independent
13 investigations and prosecutions.

14 (5) "Great bodily harm" has the meaning provided in RCW
15 9A.04.110.

16 (6) "In-custody" refers to a person who is under the physical
17 control of a general authority Washington law enforcement agency or a
18 limited authority Washington law enforcement agency as defined in RCW
19 10.93.020 or a city, county, or regional adult or juvenile
20 institution, correctional, jail, holding, or detention facility as
21 defined in RCW 70.48.020, 72.09.015, or 13.40.020.

22 (7) "Independent investigation team" means a team of qualified
23 and certified peace officer investigators, civilian crime scene
24 specialists, and other representatives who operate independently of
25 any involved agency to conduct investigations of police deadly force
26 incidents. An independent investigation team may be comprised of
27 multiple law enforcement agencies who jointly investigate police use
28 of force incidents in their geographical regions or may be a single
29 law enforcement agency, provided it is not the involved agency.

30 (8) "Involved agency" means a general authority Washington law
31 enforcement agency or limited authority Washington law enforcement
32 agency, as defined in RCW 10.93.020, that employs or supervises the
33 officer or officers who are an involved officer as defined in this
34 section, or an agency responsible for a city, county, or regional
35 adult or juvenile institution, correctional, jail, holding, or
36 detention facility as defined in RCW 70.48.020, 72.09.015, or
37 13.40.020.

38 (9) "Involved officer" means one of the following persons who is
39 involved in an incident as an actor or custodial officer in which the

1 act or omission by the individual is within the scope of the
2 jurisdiction of the office as defined in this chapter:

3 (a) A general authority Washington peace officer, specially
4 commissioned Washington peace officer, or limited authority
5 Washington peace officer, as defined in RCW 10.93.020, whether on or
6 off duty if he or she is exercising his or her authority as a peace
7 officer; or

8 (b) An individual while employed in a city, county, or regional
9 adult or juvenile institution, correctional, jail, holding, or
10 detention facility as defined in RCW 70.48.020, 72.09.015, or
11 13.40.020.

12 (10) "Office" means the office of independent investigations and
13 prosecutions.

14 (11) "Substantial bodily harm" has the same meaning as in RCW
15 9A.04.110.

16 **Sec. 9.** RCW 43.102.020 and 2021 c 318 s 301 are each amended to
17 read as follows:

18 (1) The office of independent investigations and prosecutions is
19 hereby established within the office of the governor for the purpose
20 of conducting fair, thorough, transparent, and competent
21 investigations and prosecutions as authorized under this chapter.

22 (2) The office of independent investigations and prosecutions is
23 an investigative law enforcement agency, including for the purposes
24 of the public records act, chapter 42.56 RCW.

25 **Sec. 10.** RCW 43.102.030 and 2021 c 318 s 302 are each amended to
26 read as follows:

27 In addition to other responsibilities set forth in this chapter,
28 the office shall:

29 (1) Conduct fair, thorough, transparent, and competent
30 investigations and prosecutions of police use of force and other
31 incidents involving law enforcement as authorized in this chapter and
32 shall prioritize investigations and prosecutions conducted by the
33 office based on resources and other criteria developed in
34 consultation with the advisory board. The office shall commence
35 investigations as follows:

36 (a) Beginning no later than July 1, 2022, the office is
37 authorized to conduct investigations of deadly force cases occurring
38 after July 1, 2022, including any incident involving use of deadly

1 force by an involved officer against or upon a person who is in-
2 custody or out-of-custody; and

3 (b) Beginning no later than July 1, 2023, the office is
4 authorized to review, and may investigate, prior investigations of
5 deadly force by an involved officer if new evidence is brought forth
6 that was not included in the initial investigation;

7 (2) Analyze data available to the office and provide reports and
8 recommendations as appropriate based on the data regarding issues,
9 trends, and other relevant areas;

10 (3) Provide reports on activities of the office as authorized
11 under this chapter; and

12 (4) Carry out such other responsibilities as may be consistent
13 with this chapter.

14 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.102
15 RCW to read as follows:

16 The office is authorized to conduct prosecutions of deadly force
17 cases, including any incident involving use of deadly force by an
18 involved officer against or upon a person who is in custody or out of
19 custody.

20 **Sec. 12.** RCW 43.102.050 and 2024 c 64 s 2 are each amended to
21 read as follows:

22 (1) The director shall:

23 (a) Oversee the duties and functions of the office (~~and~~),
24 investigations, and prosecutions conducted by the office pursuant to
25 this chapter;

26 (b) Hire or contract with investigators, prosecutors, and other
27 personnel as the director considers necessary to perform
28 investigations and prosecutions conducted by the office, and other
29 duties as required, under this chapter;

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

33 (d) Plan and provide training for advisory board members
34 including training to utilize an antiracist lens in their duties as
35 advisory board members;

36 (e) Publish reports of investigations conducted under this
37 chapter;

1 (f) Enter into contracts and memoranda of understanding as
2 necessary to implement the responsibilities of the office under this
3 chapter;

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

7 (h) Develop the nondisclosure agreement required in RCW
8 43.102.130; and

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

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

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

17 (i) Allow for prompt response to the incident requiring
18 investigation; and

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

21 (b) A system and requirements for involved agencies to notify the
22 office of any incident under the jurisdiction of the office, which
23 must include direction to agencies as to what incidents of force and
24 injuries and other circumstances must be reported to the office,
25 including the timing of such reports, provided that any incident
26 involving substantial bodily harm, great bodily harm, or death is
27 reported to the office immediately in accordance with RCW 43.102.120;

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

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

32 (ii) The assessment and response to the notification of the
33 incident by the office, including direction to and coordination with
34 the independent investigation team;

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

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

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

1 (vi) Protocol and direction to the independent investigation
2 team;

3 (vii) Protocol and guidelines for contacts and engagement with
4 the involved agency; and

5 (viii) Protocol for finalizing the completed investigation and
6 referral to the ~~((entity responsible for the prosecutorial decision))~~
7 independent prosecutor and local prosecuting attorney, including
8 communication with the family and public regarding the completion of
9 the investigation;

10 (d) A plan for the office's interaction, communications, and
11 responsibilities to: The involved officer; the individual who is the
12 subject of the action by the involved officer that is the basis of
13 the case under investigation, and their families; the public; and
14 other interested parties or stakeholders. The plan must consider the
15 following:

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

20 (ii) Translation services which may be utilized through employees
21 or contracted services;

22 (iii) Support to access assistance or services to the extent
23 possible; and

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

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

30 (f) Prioritization of cases for investigation.

31 (3) No later than December 1, 2025, in consultation with the
32 advisory board, the director shall develop a proposal for training
33 individuals who are nonlaw enforcement officers to conduct competent,
34 thorough investigations of cases under the jurisdiction of the
35 office. The proposal must establish a training plan with an objective
36 that within five years of the date the office begins investigating
37 deadly force cases the cases will be investigated by nonlaw
38 enforcement officers. The director shall report such proposal to the
39 governor and legislature by December 1, 2025. Any proposal offered by

1 the director must ensure investigations are high quality, thorough,
2 and competent.

3 (4) The director, in consultation with the advisory board, shall
4 implement a plan to review prior investigations of deadly force by an
5 involved officer if new evidence is brought forth that was not
6 included in the initial investigation and investigate if determined
7 appropriate based on the review. The director must prioritize the
8 review or investigation of prior investigations based on resources
9 and other cases under investigation with the office. Incidents
10 occurring after the date the office begins investigating cases will
11 receive the highest priority for investigation.

12 **Sec. 13.** RCW 43.102.060 and 2021 c 318 s 305 are each amended to
13 read as follows:

14 (1) The director may employ, or enter into contracts with,
15 personnel as he or she determines necessary for the proper discharge
16 of his or her duties. The director must request input from the
17 advisory board on the hiring process and hiring goals, including
18 diversity.

19 (2) The director may employ, or enter into contracts with,
20 investigators to conduct investigations of cases under the
21 jurisdiction of the office.

22 (a) The director shall consider the relevant experience and
23 qualifications of the candidate including the extent to which he or
24 she demonstrates experience or understanding of the following areas:

25 (i) Extensive experience with criminal investigations, including
26 homicide investigations;

27 (ii) Behavioral health issues;

28 (iii) Youth cognitive development;

29 (iv) Trauma-informed interviewing;

30 (v) De-escalation techniques and utilization; and

31 (vi) Knowledge of Washington practices, including laws, policies,
32 and procedures related to criminal law, criminal investigations, and
33 policing.

34 (b) The director shall consider the following prior to employing
35 an investigator:

36 (i) The investigators should not be commissioned law enforcement
37 officers employed with any law enforcement agency as a peace officer
38 at the time of application with the office.

1 (A) If the individual considered for a position as an
2 investigator was a prior law enforcement officer, the director must
3 conduct a review of prior disciplinary actions or complaints related
4 to bias.

5 (B) The individual should not have been a commissioned law
6 enforcement officer within 24 months of the date of the application
7 for service as an investigator; and

8 (ii) The results of a background check that includes research of
9 social media and affiliations to check for racial bias and conflicts
10 of interest.

11 (c) Investigators employed or contracted with the office are
12 prohibited from being simultaneously employed, commissioned, or have
13 any business relationship, other than through the work of the office,
14 with a general authority or limited authority Washington law
15 enforcement agency, or county or city corrections agency.

16 (d) The director may not employ an individual who was a
17 previously commissioned law enforcement officer who does not meet the
18 criteria of this section without the approval of a majority of the
19 advisory board.

20 (3) The director may employ or enter into contracts for services
21 to provide additional personnel as needed to conduct investigations
22 of cases under the jurisdiction of the office including, but not
23 limited to, the following:

24 (a) Forensic services and crime scene investigators;

25 (b) Liaisons for community, family, and relations with a
26 federally recognized tribe;

27 (c) Analysts, including analysts to conduct evaluations on use of
28 force data;

29 (d) Mental health experts;

30 (e) Bilingual staff, translators, or interpreters;

31 (f) Other experts as needed; and

32 (g) All staffing and other needs for the office.

33 (4) The independent prosecutor may employ or enter into contracts
34 with persons or entities as they determine necessary for the proper
35 discharge of the duties prescribed to the independent prosecutor
36 pursuant to this chapter.

37 (5) The independent prosecutor may employ assistant independent
38 prosecutors, or appoint and contract with special assistant
39 independent prosecutors, to preform or review and prosecute charged
40 offenses.

1 (6) The director shall ensure the following training is provided
2 to staff and that there is a regular schedule for additional
3 trainings during the course of employment:

4 (a) The director shall ensure that the director and staff
5 involved in investigations and prosecutions, including any contracted
6 investigators or prosecutors, engage in trainings that include the
7 following areas. A training may include more than one of the
8 following areas per training. A separate training course is not
9 required for each topic.

10 (i) History of racism in policing, including tribal sovereignty
11 and history of Native Americans within the justice system;

12 (ii) Implicit and explicit bias training;

13 (iii) Intercultural competency;

14 (iv) The use of a racial equity lens in conducting the work of
15 the office;

16 (v) Antiracism training; and

17 (vi) Undoing institutional racism.

18 (b) The director shall ensure that investigators engage in the
19 following training. A training may include more than one of the
20 following areas per training. A separate training course is not
21 required for each topic.

22 (i) Criminal investigations, including homicide investigations as
23 appropriate for the assigned positions;

24 (ii) Washington practices, including Washington laws and
25 policies, as well as relevant policing practices as appropriate;

26 (iii) Interviewing techniques; and

27 (iv) Other relevant trainings as needed.

28 **Sec. 14.** RCW 43.102.080 and 2024 c 64 s 3 are each amended to
29 read as follows:

30 (1) The office has jurisdiction over, and is authorized to
31 conduct investigations and prosecutions of, all cases and incidents
32 as established within this section.

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

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

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

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

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

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

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

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

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

17 (4) The investigation should include a review of the entire
18 incident, including but not limited to events immediately preceding
19 the incident that may have contributed to or influenced the outcome
20 of the incident that are directly related to the incident under
21 investigation.

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

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

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

29 (c) If the director determines that the incident is not within
30 the office's jurisdiction to investigate, the director shall decline
31 to investigate, and shall give notice of the fact to the involved
32 agency.

33 (6) If the director determines the case is to be investigated the
34 director will communicate the decision to investigate to the involved
35 agency and will thereafter be the lead investigative body in the case
36 and have priority over any other state or local agency investigating
37 the incident or a case that is under the jurisdiction of the office.
38 The director will implement the process developed pursuant to RCW
39 43.102.050 and conduct the appropriate investigation in accordance
40 with the process.

1 (7) In conducting the investigation the office shall have access
2 to, and copies of, reports and information necessary or related to
3 the investigation in the custody and control of the involved agency,
4 911 emergency communication centers, and any law enforcement agency
5 responding to the scene of the incident as soon as possible. This
6 includes, but is not limited to, voice or video recordings, body
7 camera recordings, and officer notes, as well as disciplinary and
8 administrative records except those that might be statements
9 conducted as part of an administrative investigation related to the
10 incident.

11 (8) The investigation shall be concluded within 120 days of
12 acceptance of the case for investigation. If the office is not able
13 to complete the investigation within 120 days, the director shall
14 report to the advisory board the reasons for the delay.

15 **Sec. 15.** RCW 43.102.130 and 2021 c 318 s 501 are each amended to
16 read as follows:

17 (1)(a) There is created the office of independent investigations
18 and prosecutions advisory board. The advisory board shall consist of
19 the following ~~((11))~~ (13) members, appointed by the governor, one of
20 whom the governor shall designate as chair:

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

24 (ii) ~~((One member))~~ Two members of the general public
25 representing a family impacted by an incident of the nature under the
26 jurisdiction of the office, who is not current or former law
27 enforcement;

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

30 (iv) One defense attorney representative;

31 (v) ~~((One))~~ Two prosecuting attorney ~~((representative))~~
32 representatives;

33 (vi) One representative of a police officer labor association
34 with experience in homicide investigations;

35 (vii) One sheriff or police chief who is also a member of an
36 independent investigation team;

37 (viii) One credentialed mental health expert who is not current
38 or former law enforcement; and

39 (ix) One member of the criminal justice training commission.

1 (b) The members of the advisory board appointed by the governor
2 shall be appointed for terms of three years and until their
3 successors are appointed and confirmed. The governor shall stagger
4 the initial appointment terms of the advisory board members with the
5 terms of five members being for two years from the date of
6 appointment and six members being for three years from the date of
7 appointment. The governor shall designate the appointees who will
8 serve the two-year and three-year terms. The members of the advisory
9 board serve without compensation, but must be reimbursed for travel
10 expenses as provided in RCW 43.03.050 and 43.03.060.

11 (c) The governor, when making appointments to the advisory board,
12 shall make appointments that reflect the cultural diversity of the
13 state of Washington.

14 (2) The purpose of the advisory board is to provide input to the
15 office and shall:

16 (a) Provide input to the governor on the selection of the
17 director, including providing candidates for consideration for
18 appointment for the position of director. If the governor requests
19 additional candidates for consideration, the advisory board shall
20 provide additional candidates to the governor. If the governor
21 provides an alternative candidate, the advisory board must consider
22 the candidate provided by the governor and vote on the approval or
23 rejection of the candidate.

24 (i) The advisory board shall recommend candidates to the governor
25 who they find are individuals with sound judgment, independence,
26 objectivity, and integrity who will be viewed as a trustworthy
27 director.

28 (ii) The director must have experience either in conducting
29 criminal investigations or prosecutions. The advisory board shall
30 consider the relevant experience and qualifications of the candidate
31 including the extent to which they demonstrate experience or
32 demonstrated understanding of the following areas:

- 33 (A) Criminal investigations;
34 (B) Organizational leadership;
35 (C) Mental health issues;
36 (D) Trauma-informed interviewing;
37 (E) Community leadership;
38 (F) Legal experience or background;
39 (G) Antioppression and antiracist analysis and addressing
40 systemic inequities; and

1 (H) Working with black, indigenous, and communities of color;

2 (b) Provide input to the director on the plans required to be
3 developed for the office including the regional investigation teams;
4 staffing; training for personnel; procedures for engagement with
5 individuals involved in any case under the jurisdiction of the
6 office, as well as families and the community; recommendations to the
7 legislature; and other input as requested by the governor or
8 director;

9 (c) Participate in employment interviews as requested by the
10 governor or director; and

11 (d) Receive briefings or reports from the director relating to
12 data, trends, and other relevant issues, as well as cases under
13 investigation to the extent permitted by law.

14 (3) Advisory board members have a duty to maintain the
15 confidentiality of the information they receive during the course of
16 their work on the advisory board. Each advisory board member shall
17 agree in writing to not disclose any information they receive or
18 otherwise access related to an investigation, including information
19 about individuals involved in the investigation as involved officers,
20 individuals who are the subject of police action, witnesses, and
21 investigators.

22 (4) Advisory board members must complete training to utilize an
23 antiracist lens in their duties as advisory board members.

24 (5) The office shall provide administrative and clerical
25 assistance to the advisory board.

26 **Sec. 16.** RCW 43.10.090 and 2009 c 549 s 5051 are each amended to
27 read as follows:

28 (1) Upon the written request of the governor, the attorney
29 general shall investigate violations of the criminal laws within this
30 state.

31 If, after such investigation, the attorney general believes that
32 the criminal laws are improperly enforced in any county, and that the
33 prosecuting attorney of the county has failed or neglected to
34 institute and prosecute violations of such criminal laws, either
35 generally or with regard to a specific offense or class of offenses,
36 the attorney general shall direct the prosecuting attorney to take
37 such action in connection with any prosecution as the attorney
38 general determines to be necessary and proper.

1 If any prosecuting attorney, after the receipt of such
2 instructions from the attorney general, fails or neglects to comply
3 therewith within a reasonable time, the attorney general may initiate
4 and prosecute such criminal actions as he or she shall determine. In
5 connection therewith, the attorney general shall have the same powers
6 as would otherwise be vested in the prosecuting attorney.

7 From the time the attorney general has initiated or taken over a
8 criminal prosecution, the prosecuting attorney shall not have power
9 or authority to take any legal steps relating to such prosecution,
10 except as authorized or directed by the attorney general.

11 (2) Upon the request of the governor, the office of independent
12 investigations and prosecutions shall investigate and prosecute use
13 of deadly force by an involved officer cases and other cases under
14 the jurisdiction of the office including appeals and requests for
15 postconviction relief.

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

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