

**2SHB 1028** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/11/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10  
4 RCW to read as follows:

5 (1) (a) The sexual assault forensic examination best practices  
6 advisory group is established within the office of the attorney  
7 general for the purpose of reviewing best practice models for  
8 managing all aspects of sexual assault investigations and for  
9 reducing the number of untested sexual assault kits in Washington  
10 state.

11 (i) The caucus leaders from the senate shall appoint one member  
12 from each of the two largest caucuses of the senate.

13 (ii) The caucus leaders from the house of representatives shall  
14 appoint one member from each of the two largest caucuses of the house  
15 of representatives.

16 (iii) The attorney general, in consultation with the legislative  
17 members of the advisory group, shall appoint:

18 (A) One member representing each of the following:

19 (I) The Washington state patrol;

20 (II) The Washington association of sheriffs and police chiefs;

21 (III) The Washington association of prosecuting attorneys;

22 (IV) The Washington defender association or the Washington  
23 association of criminal defense lawyers;

24 (V) The Washington association of cities;

25 (VI) The Washington association of county officials;

26 (VII) The Washington coalition of sexual assault programs;

27 (VIII) The office of crime victims advocacy;

28 (IX) The Washington state hospital association;

29 (X) The office of the attorney general; and

30 (XI) The criminal justice training commission;

31 (B) Two members representing survivors of sexual assault;

1 (C) One member who is a sexual assault nurse examiner;

2 (D) Two members who are law enforcement officers, one from a  
3 rural area and one from an urban area of the state;

4 (E) One member who is a prosecuting attorney serving in a county  
5 in a rural area of the state; and

6 (F) Two members who are community-based advocates, one from a  
7 rural area and one from an urban area of the state.

8 (b) When appointing members under (a)(iii)(D) of this subsection,  
9 the office of the attorney general shall solicit recommendations from  
10 statewide labor organizations representing law enforcement officers.

11 (2) The duties of the advisory group include, but are not limited  
12 to:

13 (a) Researching the best practice models both in state and from  
14 other states for collaborative responses to victims of sexual assault  
15 from the point the sexual assault kit is collected to the conclusion  
16 of the investigation and prosecution of a case, and providing  
17 recommendations regarding any existing gaps in Washington and  
18 resources that may be necessary to address those gaps;

19 (b) Researching and making recommendations on opportunities to  
20 increase access to, and availability of, critical sexual assault  
21 nurse examiner services;

22 (c) Monitoring the testing of the backlog of sexual assault kits  
23 and the supply chain and distribution of sexual assault kits;

24 (d) Monitoring implementation of state and federal legislative  
25 changes;

26 (e) Collaborating with the legislature, state agencies, medical  
27 facilities, and local governments to implement reforms pursuant to  
28 federal grant requirements; and

29 (f) Making recommendations for institutional reforms necessary to  
30 prevent sexual assault and improve the experiences of sexual assault  
31 survivors in the criminal justice system.

32 (3) The office of the attorney general shall administer and  
33 provide staff support to the advisory group.

34 (4) Legislative members of the advisory group must be reimbursed  
35 for travel expenses in accordance with RCW 44.04.120. Nonlegislative  
36 members, except those representing an employer or organization, are  
37 entitled to be reimbursed for travel expenses in accordance with RCW  
38 43.03.050 and 43.03.060.

39 (5) The advisory group must meet no less than twice annually.

1 (6) The advisory group shall report its findings and  
2 recommendations to the appropriate committees of the legislature and  
3 the governor by December 15th of each year.

4 (7) This section expires July 1, 2026.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101  
6 RCW to read as follows:

7 (1) Subject to the availability of amounts appropriated for this  
8 specific purpose, the commission shall administer a grant program for  
9 establishing a statewide resource prosecutor for sexual assault  
10 cases.

11 (2) The grant recipient must be a statewide organization or  
12 association representing prosecuting attorneys. The grant recipient  
13 shall hire a resource prosecutor for the following purposes:

14 (a) To provide technical assistance and research to prosecutors  
15 for prosecuting sexual assault cases;

16 (b) To provide additional training and resources to prosecutors  
17 to support a trauma-informed, victim-centered approach to prosecuting  
18 sexual assault cases;

19 (c) To meet regularly with law enforcement agencies and  
20 prosecutors to explain legal issues and prosecutorial approaches to  
21 sexual assault cases and provide and receive feedback to improve case  
22 outcomes;

23 (d) To consult with the commission, the office of the attorney  
24 general, and the sexual assault forensic examination best practices  
25 advisory group under section 1 of this act with respect to developing  
26 and implementing best practices for prosecuting sexual assault cases  
27 across the state; and

28 (e) To comply with other requirements established by the  
29 commission under this section.

30 (3) The commission may, in consultation with the sexual assault  
31 forensic examination best practices advisory group under section 1 of  
32 this act, establish additional appropriate conditions for any grant  
33 awarded under this section. The commission may adopt necessary  
34 policies and procedures to implement and administer the grant  
35 program, including monitoring the use of grant funds and compliance  
36 with the grant requirements.

37 **Sec. 3.** RCW 43.101.272 and 2019 c 93 s 5 are each amended to  
38 read as follows:

1 (1) Subject to the availability of amounts appropriated for this  
2 specific purpose, the commission shall provide ongoing specialized,  
3 intensive, and integrative training for persons responsible for  
4 investigating sexual assault ~~((eases))~~ and other gender-based  
5 violence involving adult victims, and the highest ranking supervisors  
6 and commanders overseeing sexual assault and other gender-based  
7 violence investigations. The training must be based on a victim-  
8 centered, trauma-informed approach to responding to sexual assault.  
9 Among other subjects, the training must include content on the  
10 neurobiology of trauma and trauma-informed interviewing, counseling,  
11 and investigative techniques.

12 (2) The training must: Be based on research-based practices and  
13 standards; offer participants an opportunity to practice interview  
14 skills and receive feedback from instructors; minimize the trauma of  
15 all persons who are interviewed during abuse investigations; provide  
16 methods of reducing the number of investigative interviews necessary  
17 whenever possible; assure, to the extent possible, that investigative  
18 interviews are thorough, objective, and complete; recognize needs of  
19 special populations; recognize the nature and consequences of  
20 victimization; require investigative interviews to be conducted in a  
21 manner most likely to permit the interviewed persons the maximum  
22 emotional comfort under the circumstances; address record retention  
23 and retrieval; address documentation of investigative interviews; and  
24 educate investigators on the best practices for notifying victims of  
25 the results of forensic analysis of sexual assault kits and other  
26 significant events in the investigative process, including for active  
27 investigations and cold cases.

28 (3) In developing the training, the commission shall seek advice  
29 from the Washington association of sheriffs and police chiefs, the  
30 Washington coalition of sexual assault programs, and experts on  
31 sexual assault, gender-based violence, and the neurobiology of  
32 trauma. The commission shall consult with the Washington association  
33 of prosecuting attorneys in an effort to design training containing  
34 consistent elements for all professionals engaged in interviewing and  
35 interacting with sexual assault victims in the criminal justice  
36 system.

37 (4) ~~((The commission shall develop the training and begin~~  
38 ~~offering it by July 1, 2018.))~~ Officers assigned to regularly  
39 investigate sexual assault and other gender-based violence involving  
40 adult victims and the highest ranking supervisors and commanders

1 overseeing those investigations shall complete the training within  
2 one year of being assigned (~~or by July 1, 2020, whichever is~~  
3 ~~later~~)).

4 **Sec. 4.** RCW 43.101.276 and 2017 c 290 s 5 are each amended to  
5 read as follows:

6 (1) Subject to the availability of amounts appropriated for this  
7 specific purpose, the commission shall develop peace officer training  
8 on a victim-centered, trauma-informed approach to interacting with  
9 victims and responding to (~~sexual assault~~) calls involving gender-  
10 based violence. The curriculum must: Be (~~designed for commissioned~~  
11 ~~patrol officers not regularly assigned to investigate sexual assault~~  
12 ~~eases; be~~) designed for deployment and use within individual law  
13 enforcement agencies; include features allowing for it to be used in  
14 different environments, which may include multimedia or video  
15 components; and allow for law enforcement agencies to host it in  
16 small segments at different times over several days or weeks,  
17 including roll calls. The training must include components on  
18 available resources for victims including, but not limited to,  
19 material on and references to community-based victim advocates.

20 (2) In developing the training, the commission shall seek advice  
21 from the Washington association of sheriffs and police chiefs, the  
22 Washington coalition of sexual assault programs, and experts on  
23 sexual assault, gender-based violence, and the neurobiology of  
24 trauma.

25 (3) (~~Beginning in 2018, all law enforcement agencies shall~~  
26 ~~annually host the training for commissioned peace officers. All law~~  
27 ~~enforcement agencies shall, to the extent feasible, consult with and~~  
28 ~~feature local community-based victim advocates during the training.~~)  
29 All peace officers shall complete the training under this section at  
30 least once every three years.

31 **Sec. 5.** RCW 43.101.278 and 2021 c 118 s 3 are each amended to  
32 read as follows:

33 (1) Subject to the availability of amounts appropriated for this  
34 specific purpose, the commission shall conduct an annual case review  
35 program. The program must review case files from law enforcement  
36 agencies and prosecuting attorneys selected by the commission in  
37 order to identify changes to training and investigatory practices

1 necessary to optimize outcomes in sexual assault investigations and  
2 prosecutions involving adult victims. The program must include:

3 (a) An evaluation of whether current training and practices  
4 foster a trauma-informed, victim-centered approach to victim  
5 interviews and that identifies best practices and current gaps in  
6 training and assesses the integration of the community resiliency  
7 model;

8 (b) A comparison of cases involving investigators and  
9 interviewers who have participated in training to cases involving  
10 investigators and interviewers who have not participated in training;

11 (c) A comparison of cases involving prosecutors who have  
12 participated in the training described in section 6 of this act to  
13 cases involving prosecutors who have not participated in such  
14 training;

15 (d) Randomly selected cases for a systematic review to assess  
16 whether current practices conform to national best practices for a  
17 multidisciplinary approach to investigating and prosecuting sexual  
18 assault cases and interacting with survivors; and

19 ~~((d))~~ (e) An analysis of the impact that race and ethnicity  
20 have on sexual assault case outcomes.

21 (2) The case review program may review and access files,  
22 including all reports and recordings, pertaining to closed cases  
23 involving allegations of adult sexual assault only. Any law  
24 enforcement agency or prosecuting attorney selected for the program  
25 by the commission shall make requested case files and other documents  
26 available to the commission, provided that the case files are not  
27 linked to ongoing, open investigations and that redactions may be  
28 made where appropriate and necessary. Agencies and prosecuting  
29 attorneys shall include available information on the race and  
30 ethnicity of all sexual assault victims in the relevant case files  
31 provided to the commission. Case files and other documents must be  
32 made available to the commission according to appropriate deadlines  
33 established by the commission in consultation with the agency or  
34 prosecuting attorney.

35 (3) If a law enforcement agency has not participated in the  
36 training under RCW 43.101.272 ~~((by July 1, 2022))~~ or 43.101.276  
37 within the previous 24 months, the commission may prioritize the  
38 agency for selection to participate in the program under this  
39 section.

1 (4) In designing and conducting the program, the commission shall  
2 consult and collaborate with experts in trauma-informed and victim-  
3 centered training, experts in sexual assault investigations and  
4 prosecutions, victim advocates, and other stakeholders identified by  
5 the commission. The commission may form a multidisciplinary working  
6 group for the purpose of carrying out the requirements of this  
7 section.

8 (5) The commission shall submit a report with a summary of its  
9 work to the governor and the appropriate committees of the  
10 legislature by December 1st of each year.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.101  
12 RCW to read as follows:

13 (1) Subject to the availability of amounts appropriated for this  
14 specific purpose, the commission shall, in partnership with the  
15 special resource prosecutor under section 2 of this act, develop and  
16 conduct specialized, intensive, and integrative training for persons  
17 responsible for prosecuting sexual assault cases involving adult  
18 victims.

19 (2) The training must:

20 (a) Use a victim-centered, trauma-informed approach to  
21 prosecuting sexual assaults including, but not limited to, the  
22 following goals: Recognizing the nature and consequences of  
23 victimization; prioritizing the safety and well-being of victims; and  
24 recognizing the needs of special populations;

25 (b) Include content on the neurobiology of trauma and trauma-  
26 informed interviewing, counseling, investigative, and prosecution  
27 techniques;

28 (c) Offer participants an opportunity to practice interview and  
29 trial skills, including receiving feedback from instructors;

30 (d) Share best practices for communicating with victims  
31 throughout the criminal justice process;

32 (e) Include additional content relevant to and informed by best  
33 practices for improving outcomes in sexual assault prosecutions, as  
34 deemed appropriate by the commission;

35 (f) Take into account the training under RCW 43.101.272 in order  
36 to provide consistent and complimentary training for investigators  
37 and prosecutors;

38 (g) Be designed to qualify for some continuing legal education  
39 credits through the Washington state bar association; and

1 (h) Be offered at least once per calendar year and be deployed in  
2 different locations across the state, or through some other broadly  
3 accessible means, in order to improve access to the training for  
4 prosecutors serving in small offices or rural areas.

5 **Sec. 7.** RCW 43.43.754 and 2021 c 215 s 149 are each amended to  
6 read as follows:

7 (1) A biological sample must be collected for purposes of DNA  
8 identification analysis from:

9 (a) Every adult or juvenile individual convicted of a felony, or  
10 adjudicated of an offense which if committed by an adult would be a  
11 felony, or any of the following crimes (or equivalent juvenile  
12 offenses):

13 (i) Assault in the fourth degree where domestic violence as  
14 defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041,  
15 9.94A.030);

16 (ii) Assault in the fourth degree with sexual motivation (RCW  
17 9A.36.041, 9.94A.835);

18 (iii) Communication with a minor for immoral purposes (RCW  
19 9.68A.090);

20 (iv) Custodial sexual misconduct in the second degree (RCW  
21 9A.44.170);

22 (v) Failure to register (chapter 9A.44 RCW);

23 (vi) Harassment (RCW 9A.46.020);

24 (vii) Patronizing a prostitute (RCW 9A.88.110);

25 (viii) Sexual misconduct with a minor in the second degree (RCW  
26 9A.44.096);

27 (ix) Stalking (RCW 9A.46.110);

28 (x) Indecent exposure (RCW 9A.88.010);

29 (xi) Violation of a sexual assault protection order granted under  
30 chapter 7.105 RCW or former chapter 7.90 RCW; and

31 (b) Every adult or juvenile individual who is required to  
32 register under RCW 9A.44.130.

33 (2)(a) A municipal jurisdiction may also submit any biological  
34 sample to the laboratory services bureau of the Washington state  
35 patrol for purposes of DNA identification analysis when:

36 (i) The sample was collected from a defendant upon conviction for  
37 a municipal offense where the underlying ordinance does not adopt the  
38 relevant state statute by reference but the offense is otherwise  
39 equivalent to an offense in subsection (1)(a) of this section;



1 (ii) The equivalent offense in subsection (1)(a) of this section  
2 was an offense for which collection of a biological sample was  
3 required under this section at the time of the conviction; and

4 (iii) The sample was collected on or after June 12, 2008, and  
5 before January 1, 2020.

6 (b) When submitting a biological sample under this subsection,  
7 the municipal jurisdiction must include a signed affidavit from the  
8 municipal prosecuting authority of the jurisdiction in which the  
9 conviction occurred specifying the state crime to which the municipal  
10 offense is equivalent.

11 (3) Law enforcement may submit to the forensic laboratory  
12 services bureau of the Washington state patrol, for purposes of DNA  
13 identification analysis, any lawfully obtained biological sample  
14 within its control from a deceased offender who was previously  
15 convicted of an offense under subsection (1)(a) of this section,  
16 regardless of the date of conviction.

17 (4) If the Washington state patrol crime laboratory already has a  
18 DNA sample from an individual for a qualifying offense, a subsequent  
19 submission is not required to be submitted.

20 (5) Biological samples shall be collected in the following  
21 manner:

22 (a) (i) (A) For persons convicted of any offense listed in  
23 subsection (1)(a) of this section or adjudicated guilty of an  
24 equivalent juvenile offense, who do not serve a term of confinement  
25 in a department of corrections facility or a department of children,  
26 youth, and families facility, and are serving a term of confinement  
27 in a city or county jail facility, the city or county jail facility  
28 shall be responsible for obtaining the biological samples prior to  
29 the person's release from confinement.

30 (B) Each city and county jail facility must adopt and implement a  
31 policy that collects biological samples from persons convicted of an  
32 offense listed in subsection (1)(a) of this section as soon as  
33 practicable during the person's term of confinement.

34 (ii) If the biological sample is not collected prior to the  
35 person's release from confinement, the responsible city or county  
36 jail facility shall notify the sentencing court within three business  
37 days of the person's release that it has released the person without  
38 collecting the person's biological sample, and provide the reason for  
39 releasing the person without collecting a biological sample. Within  
40 10 days of receiving notice of the person's release, the sentencing

1 court shall schedule a compliance hearing. The jail shall serve or  
2 cause to be served notice to the person of the compliance hearing and  
3 shall file proof of service with the sentencing court. A  
4 representative of the jail shall attend the compliance hearing and  
5 obtain the person's biological sample at the hearing. The court may,  
6 in its discretion, require the jail to pay attorneys' fees and court  
7 costs associated with scheduling and attending the compliance  
8 hearing.

9 (b) The local police department or sheriff's office shall be  
10 responsible for obtaining the biological samples for:

11 (i) Persons convicted of any offense listed in subsection (1)(a)  
12 of this section or adjudicated guilty of an equivalent juvenile  
13 offense, who do not serve a term of confinement in a department of  
14 corrections facility, department of children, youth, and families  
15 facility, or a city or county jail facility; and

16 (ii) Persons who are required to register under RCW 9A.44.130.

17 (c) (i) For persons convicted of any offense listed in subsection  
18 (1)(a) of this section or adjudicated guilty of an equivalent  
19 juvenile offense, who are serving or who are to serve a term of  
20 confinement in a department of corrections facility or a department  
21 of children, youth, and families facility, the facility holding the  
22 person shall be responsible for obtaining the biological samples as  
23 part of the intake process. If the facility did not collect the  
24 biological sample during the intake process, then the facility shall  
25 collect the biological sample as soon as is practicable prior to the  
26 person's release from confinement. For those persons incarcerated  
27 before June 12, 2008, who have not yet had a biological sample  
28 collected, priority shall be given to those persons who will be  
29 released the soonest.

30 (ii) If the biological sample is not collected prior to the  
31 person's release from confinement, the responsible department of  
32 corrections facility or department of children, youth, and families  
33 facility shall notify the sentencing court within three business days  
34 of the person's release that it has released the person without  
35 collecting the person's biological sample. Within 10 days of  
36 receiving notice of the person's release, the sentencing court shall  
37 schedule a compliance hearing. The responsible department of  
38 corrections facility or department of children, youth, and families  
39 facility shall serve or cause to be served notice to the person of  
40 the compliance hearing and shall file proof of service with the

1 sentencing court. A representative of the responsible department of  
2 corrections facility or department of children, youth, and families  
3 facility shall attend the compliance hearing and obtain the person's  
4 biological sample at the hearing. The court may, in its discretion,  
5 require the responsible department of corrections facility or  
6 department of children, youth, and families facility to pay  
7 attorneys' fees and court costs associated with scheduling and  
8 attending the compliance hearing.

9 (d) For persons convicted of any offense listed in subsection  
10 (1)(a) of this section or adjudicated guilty of an equivalent  
11 juvenile offense, who will not serve a term of confinement, the court  
12 shall: Order the person to (~~report to the local police department or~~  
13 ~~sheriff's office as provided under subsection (5)(b)(i) of this~~  
14 ~~section within a reasonable period of time established by the court~~  
15 ~~in order to provide a biological sample)) be administratively booked  
16 at a city or county jail facility for the sole purpose of providing a  
17 biological sample; or if the local police department or sheriff's  
18 office has a protocol for collecting the biological sample in the  
19 courtroom, order the person to immediately provide the biological  
20 sample to the local police department or sheriff's office before  
21 leaving the presence of the court. The court must further inform the  
22 person that refusal to provide a biological sample is a gross  
23 misdemeanor under this section.~~

24 (e) For persons convicted of any offense listed in subsection  
25 (1)(a) of this section or adjudicated guilty of an equivalent  
26 juvenile offense, the court shall create and implement a biological  
27 sample collection protocol. The court shall order the biological  
28 samples at the time of sentencing. The court shall inform the person  
29 that refusal to provide a biological sample is a gross misdemeanor  
30 under this section. If the biological sample is not collected at the  
31 time of sentencing, then the biological sample shall be collected  
32 pursuant to (a) through (d) of this subsection (5), and the court  
33 shall schedule a compliance hearing within 10 days of the sentencing  
34 to ensure that the biological sample has been collected.

35 (6) Any biological sample taken pursuant to RCW 43.43.752 through  
36 43.43.758 may be retained by the forensic laboratory services bureau,  
37 and shall be used solely for the purpose of providing DNA or other  
38 tests for identification analysis and prosecution of a criminal  
39 offense or for the identification of human remains or missing  
40 persons. Nothing in this section prohibits the submission of results

1 derived from the biological samples to the federal bureau of  
2 investigation combined DNA index system.

3 (7) The forensic laboratory services bureau of the Washington  
4 state patrol is responsible for testing performed on all biological  
5 samples that are collected under this section, to the extent allowed  
6 by funding available for this purpose. Known duplicate samples may be  
7 excluded from testing unless testing is deemed necessary or advisable  
8 by the director.

9 (8) This section applies to:

10 (a) All adults and juveniles to whom this section applied prior  
11 to June 12, 2008;

12 (b) All adults and juveniles to whom this section did not apply  
13 prior to June 12, 2008, who:

14 (i) Are convicted on or after June 12, 2008, of an offense listed  
15 in subsection (1)(a) of this section on the date of conviction; or

16 (ii) Were convicted prior to June 12, 2008, of an offense listed  
17 in subsection (1)(a) of this section and are still incarcerated on or  
18 after June 12, 2008;

19 (c) All adults and juveniles who are required to register under  
20 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,  
21 on, or after June 12, 2008; and

22 (d) All samples submitted under subsections (2) and (3) of this  
23 section.

24 (9) This section creates no rights in a third person. No cause of  
25 action may be brought based upon the noncollection or nonanalysis or  
26 the delayed collection or analysis of a biological sample authorized  
27 to be taken under RCW 43.43.752 through 43.43.758.

28 (10) The detention, arrest, or conviction of a person based upon  
29 a database match or database information is not invalidated if it is  
30 determined that the sample was obtained or placed in the database by  
31 mistake, or if the conviction or juvenile adjudication that resulted  
32 in the collection of the biological sample was subsequently vacated  
33 or otherwise altered in any future proceeding including but not  
34 limited to posttrial or postfact-finding motions, appeals, or  
35 collateral attacks. No cause of action may be brought against the  
36 state based upon the analysis of a biological sample authorized to be  
37 taken pursuant to a municipal ordinance if the conviction or  
38 adjudication that resulted in the collection of the biological sample  
39 was subsequently vacated or otherwise altered in any future

1 proceeding including, but not limited to, posttrial or postfact-  
2 finding motions, appeals, or collateral attacks.

3 (11) A person commits the crime of refusal to provide DNA if the  
4 person willfully refuses to comply with a legal request for a DNA  
5 sample as required under this section. The refusal to provide DNA is  
6 a gross misdemeanor.

7 **Sec. 8.** RCW 9A.04.080 and 2022 c 282 s 4 are each amended to  
8 read as follows:

9 (1) Prosecutions for criminal offenses shall not be commenced  
10 after the periods prescribed in this section.

11 (a) The following offenses may be prosecuted at any time after  
12 their commission:

13 (i) Murder;

14 (ii) Homicide by abuse;

15 (iii) Arson if a death results;

16 (iv) Vehicular homicide;

17 (v) Vehicular assault if a death results;

18 (vi) Hit-and-run injury-accident if a death results (RCW  
19 46.52.020(4));

20 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is  
21 under the age of sixteen;

22 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is  
23 under the age of sixteen;

24 (ix) Rape of a child in the first degree (RCW 9A.44.073);

25 (x) Rape of a child in the second degree (RCW 9A.44.076);

26 (xi) Rape of a child in the third degree (RCW 9A.44.079);

27 (xii) Sexual misconduct with a minor in the first degree (RCW  
28 9A.44.093);

29 (xiii) Custodial sexual misconduct in the first degree (RCW  
30 9A.44.160);

31 (xiv) Child molestation in the first degree (RCW 9A.44.083);

32 (xv) Child molestation in the second degree (RCW 9A.44.086);

33 (xvi) Child molestation in the third degree (RCW 9A.44.089); and

34 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

35 (b) Except as provided in (a) of this subsection, the following  
36 offenses may not be prosecuted more than twenty years after its  
37 commission:

38 (i) Rape in the first degree (RCW 9A.44.040);

39 (ii) Rape in the second degree (RCW 9A.44.050); or

1 (iii) Indecent liberties (RCW 9A.44.100).

2 (c) The following offenses may not be prosecuted more than ten  
3 years after its commission:

4 (i) Any felony committed by a public officer if the commission is  
5 in connection with the duties of his or her office or constitutes a  
6 breach of his or her public duty or a violation of the oath of  
7 office;

8 (ii) Arson if no death results;

9 (iii) Rape in the third degree (RCW 9A.44.060);

10 (iv) Attempted murder; or

11 (v) Trafficking under RCW 9A.40.100.

12 (d) A violation of any offense listed in this subsection (1)(d)  
13 may be prosecuted up to ten years after its commission or, if  
14 committed against a victim under the age of eighteen, up to the  
15 victim's thirtieth birthday, whichever is later:

16 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);

17 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a  
18 minor);

19 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse  
20 of a minor); or

21 (iv) RCW 9A.64.020 (incest).

22 (e) The following offenses may not be prosecuted more than six  
23 years after its commission or discovery, whichever occurs later:

24 (i) Violations of RCW 9A.82.060 or 9A.82.080;

25 (ii) Any felony violation of chapter 9A.83 RCW;

26 (iii) Any felony violation of chapter 9.35 RCW;

27 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
28 when accomplished by color or aid of deception;

29 (v) Theft from a vulnerable adult under RCW 9A.56.400;

30 (vi) Trafficking in stolen property in the first or second degree  
31 under chapter 9A.82 RCW in which the stolen property is a motor  
32 vehicle or major component part of a motor vehicle as defined in RCW  
33 46.80.010; or

34 (vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

35 (f) The following offenses may not be prosecuted more than five  
36 years after its commission: Any class C felony under chapter 74.09,  
37 82.36, or 82.38 RCW.

38 (g) Bigamy may not be prosecuted more than three years after the  
39 time specified in RCW 9A.64.010.

1 (h) A violation of RCW 9A.56.030 may not be prosecuted more than  
2 three years after the discovery of the offense when the victim is a  
3 tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

4 (i) No other felony may be prosecuted more than three years after  
5 its commission; except that in a prosecution under RCW 9A.44.115, if  
6 the person who was viewed, photographed, or filmed did not realize at  
7 the time that he or she was being viewed, photographed, or filmed,  
8 the prosecution must be commenced within two years of the time the  
9 person who was viewed or in the photograph or film first learns that  
10 he or she was viewed, photographed, or filmed.

11 (j) No gross misdemeanor may be prosecuted more than two years  
12 after its commission.

13 (k) No misdemeanor may be prosecuted more than one year after its  
14 commission.

15 (2) The periods of limitation prescribed in subsection (1) of  
16 this section do not run during any time when the person charged is  
17 not usually and publicly resident within this state.

18 (3) In any prosecution for a sex offense as defined in RCW  
19 9.94A.030, the periods of limitation prescribed in subsection (1) of  
20 this section run from the date of commission or (~~two~~) four years  
21 from the date on which the identity of the suspect is conclusively  
22 established by deoxyribonucleic acid testing or by photograph as  
23 defined in RCW 9.68A.011, whichever is later.

24 (4) If, before the end of a period of limitation prescribed in  
25 subsection (1) of this section, an indictment has been found or a  
26 complaint or an information has been filed, and the indictment,  
27 complaint, or information is set aside, then the period of limitation  
28 is extended by a period equal to the length of time from the finding  
29 or filing to the setting aside.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02  
31 RCW to read as follows:

32 A disclosure authorization to a health care provider or health  
33 care facility authorizing disclosure of information to law  
34 enforcement regarding a forensic examination performed for the  
35 purposes of gathering evidence for possible prosecution of a criminal  
36 offense must be valid until the end of all related criminal  
37 proceedings or a later event selected by the provider, facility,  
38 patient, or patient's representative, unless the patient or patient's

1 representative requests a different expiration date or event for the  
2 disclosure authorization.

3 **Sec. 10.** RCW 9A.44.020 and 2013 c 302 s 7 are each amended to  
4 read as follows:

5 (1) In order to convict a person of any crime defined in this  
6 chapter it shall not be necessary that the testimony of the alleged  
7 victim be corroborated.

8 (2) Evidence of the victim's past sexual behavior including but  
9 not limited to the victim's marital history(~~( $\tau$ )~~); divorce history(~~( $\tau$~~   
10  ~~$\oplus$ )~~); general reputation for promiscuity, nonchastity, or sexual  
11 mores contrary to community standards; or, unless it is related to  
12 the alleged offense, social media account, including any text, image,  
13 video, or picture, which depict sexual content, sexual history,  
14 nudity or partial nudity, intimate sexual activity, communications  
15 about sexual activity, communications about sex, sexual fantasies,  
16 and other information that appeals to a prurient interest is  
17 inadmissible on the issue of credibility and is inadmissible to prove  
18 the victim's consent except as provided in subsection (3) of this  
19 section, but when the perpetrator and the victim have engaged in  
20 sexual intercourse with each other in the past, and when the past  
21 behavior is material to the issue of consent, evidence concerning the  
22 past behavior between the perpetrator and the victim may be  
23 admissible on the issue of consent to the offense.

24 (3) In any prosecution for the crime of rape, trafficking  
25 pursuant to RCW 9A.40.100, or any of the offenses in chapter 9.68A  
26 RCW, or for an attempt to commit, or an assault with an intent to  
27 commit any such crime evidence of the victim's past sexual behavior  
28 including but not limited to the victim's marital behavior(~~( $\tau$ )~~);  
29 divorce history(~~( $\tau$ — $\oplus$ )~~); general reputation for promiscuity,  
30 nonchastity, or sexual mores contrary to community standards; or,  
31 unless it is related to the alleged offense, social media account,  
32 including any text, image, video, or picture, which depict sexual  
33 content, sexual history, nudity or partial nudity, intimate sexual  
34 activity, communications about sexual activity, communications about  
35 sex, sexual fantasies, and other information that appeals to a  
36 prurient interest is not admissible if offered to attack the  
37 credibility of the victim and is admissible on the issue of consent,  
38 except where prohibited in the underlying criminal offense, only  
39 pursuant to the following procedure:



1 (a) A written pretrial motion shall be made by the defendant to  
2 the court and prosecutor stating that the defense has an offer of  
3 proof of the relevancy of evidence of the past sexual behavior of the  
4 victim proposed to be presented and its relevancy on the issue of the  
5 consent of the victim.

6 (b) The written motion shall be accompanied by an affidavit or  
7 affidavits in which the offer of proof shall be stated.

8 (c) If the court finds that the offer of proof is sufficient, the  
9 court shall order a hearing out of the presence of the jury, if any,  
10 and the hearing shall be closed except to the necessary witnesses,  
11 the defendant, counsel, and those who have a direct interest in the  
12 case or in the work of the court.

13 (d) At the conclusion of the hearing, if the court finds that the  
14 evidence proposed to be offered by the defendant regarding the past  
15 sexual behavior of the victim is relevant to the issue of the  
16 victim's consent; is not inadmissible because its probative value is  
17 substantially outweighed by the probability that its admission will  
18 create a substantial danger of undue prejudice; and that its  
19 exclusion would result in denial of substantial justice to the  
20 defendant; the court shall make an order stating what evidence may be  
21 introduced by the defendant, which order may include the nature of  
22 the questions to be permitted. The defendant may then offer evidence  
23 pursuant to the order of the court.

24 (4) Nothing in this section shall be construed to prohibit cross-  
25 examination of the victim on the issue of past sexual behavior when  
26 the prosecution presents evidence in its case in chief tending to  
27 prove the nature of the victim's past sexual behavior, but the court  
28 may require a hearing pursuant to subsection (3) of this section  
29 concerning such evidence.

30 **Sec. 11.** RCW 7.69.030 and 2022 c 229 s 1 are each amended to  
31 read as follows:

32 (1) There shall be a reasonable effort made to ensure that  
33 victims, survivors of victims, and witnesses of crimes have the  
34 following rights, which apply to any adult or juvenile criminal  
35 ~~((court and/or juvenile court))~~ proceeding and any civil commitment  
36 proceeding under chapter 71.09 RCW:

37 ~~((1))~~ (a) With respect to victims of violent or sex crimes, to  
38 receive, at the time of reporting the crime to law enforcement  
39 officials, a written statement of the rights of crime victims as

1 provided in this chapter. The written statement shall include the  
2 name, address, and telephone number of a county or local crime  
3 victim/witness program, if such a crime victim/witness program exists  
4 in the county;

5 ~~((2))~~ (b) To be informed by local law enforcement agencies or  
6 the prosecuting attorney of the final disposition of the case in  
7 which the victim, survivor, or witness is involved;

8 ~~((3))~~ (c) To be notified by the party who issued the subpoena  
9 that a court proceeding to which they have been subpoenaed will not  
10 occur as scheduled, in order to save the person an unnecessary trip  
11 to court;

12 ~~((4))~~ (d) To receive protection from harm and threats of harm  
13 arising out of cooperation with law enforcement and prosecution  
14 efforts, and to be provided with information as to the level of  
15 protection available;

16 ~~((5))~~ (e) To be informed of the procedure to be followed to  
17 apply for and receive any witness fees to which they are entitled;

18 ~~((6))~~ (f) To be provided, whenever practical, a secure waiting  
19 area during court proceedings that does not require them to be in  
20 close proximity to defendants and families or friends of defendants;

21 ~~((7))~~ (g) To have any stolen or other personal property  
22 expeditiously returned by law enforcement agencies or the superior  
23 court when no longer needed as evidence. When feasible, all such  
24 property, except weapons, currency, contraband, property subject to  
25 evidentiary analysis, and property of which ownership is disputed,  
26 shall be photographed and returned to the owner within ten days of  
27 being taken;

28 ~~((8))~~ (h) To be provided with appropriate employer intercession  
29 services to ensure that employers of victims, survivors of victims,  
30 and witnesses of crime will cooperate with the criminal justice  
31 process or the civil commitment process under chapter 71.09 RCW in  
32 order to minimize an employee's loss of pay and other benefits  
33 resulting from court appearance;

34 ~~((9))~~ (i) To access to immediate medical assistance and not to  
35 be detained for an unreasonable length of time by a law enforcement  
36 agency before having such assistance administered. However, an  
37 employee of the law enforcement agency may, if necessary, accompany  
38 the person to a medical facility to question the person about the  
39 criminal incident if the questioning does not hinder the  
40 administration of medical assistance. Victims of domestic violence,

1 sexual assault, or stalking, as defined in RCW 49.76.020, shall be  
2 notified of their right to reasonable leave from employment under  
3 chapter 49.76 RCW;

4 ~~((10))~~ (j) With respect to victims of violent and sex crimes,  
5 to have a crime victim advocate from a crime victim/witness program,  
6 or any other support person of the victim's choosing, present at any  
7 prosecutorial or defense interviews with the victim, and at any  
8 judicial proceedings related to criminal acts committed against the  
9 victim. This subsection applies if practical and if the presence of  
10 the crime victim advocate or support person does not cause any  
11 unnecessary delay in the investigation or prosecution of the case.  
12 The role of the crime victim advocate is to provide emotional support  
13 to the crime victim;

14 ~~((11))~~ (k) With respect to victims and survivors of victims, to  
15 be physically present in court during trial, or if subpoenaed to  
16 testify, to be scheduled as early as practical in the proceedings in  
17 order to be physically present during trial after testifying and not  
18 to be excluded solely because they have testified;

19 ~~((12))~~ (l) With respect to victims and survivors of victims in  
20 any felony case ~~((or))~~, any case involving domestic violence, or any  
21 final determination under chapter 71.09 RCW, to be informed by the  
22 prosecuting attorney of the date, time, and place of the trial and of  
23 the sentencing hearing or disposition hearing upon request by a  
24 victim or survivor;

25 ~~((13))~~ (m) To submit a victim impact statement or report to the  
26 court, with the assistance of the prosecuting attorney if requested,  
27 which shall be included in all presentence reports and permanently  
28 included in the files and records accompanying the offender committed  
29 to the custody of a state agency or institution;

30 ~~((14))~~ (n) With respect to victims and survivors of victims in  
31 any felony case or any case involving domestic violence, to present a  
32 statement, personally or by representation, at the sentencing  
33 hearing; and

34 ~~((15))~~ (o) With respect to victims and survivors of victims, to  
35 entry of an order of restitution by the court in all felony cases,  
36 even when the offender is sentenced to confinement, unless  
37 extraordinary circumstances exist which make restitution  
38 inappropriate in the court's judgment.

39 (2) If a victim, survivor of a victim, or witness of a crime is  
40 denied a right under this section, the person may seek an order

1 directing compliance by the relevant party or parties by filing a  
2 petition in the superior court in the county in which the crime  
3 occurred and providing notice of the petition to the relevant party  
4 or parties. Compliance with the right is the sole available remedy.  
5 The court shall expedite consideration of a petition filed under this  
6 subsection.

7 NEW SECTION. Sec. 12. Section 4 of this act takes effect July  
8 1, 2024.

9 NEW SECTION. Sec. 13. If specific funding for the purposes of  
10 this act, referencing this act by bill or chapter number, is not  
11 provided by June 30, 2023, in the omnibus appropriations act, this  
12 act is null and void."

**2SHB 1028** - S COMM AMD  
By Committee on Law & Justice

**ADOPTED 04/11/2023**

13 On page 1, line 3 of the title, after "system;" strike the  
14 remainder of the title and insert "amending RCW 43.101.272,  
15 43.101.276, 43.101.278, 43.43.754, 9A.04.080, 9A.44.020, and  
16 7.69.030; adding a new section to chapter 43.10 RCW; adding new  
17 sections to chapter 43.101 RCW; adding a new section to chapter 70.02  
18 RCW; creating a new section; providing an effective date; and  
19 providing an expiration date."

EFFECT: (1) Requires biological samples to be collected from a juvenile who is adjudicated of an offense which if committed by an adult would be a felony.

(2) Requires jail and prison facilities to collect biological samples before a convicted person required to provide a sample is released from confinement, and establishes procedures to collect biological samples if such samples are not collected prior to a person's release from confinement. Requires persons required to provide a biological sample who will not be confined in a jail or prison facility, to be administratively booked at a city or county jail facility for the sole purpose of providing a biological sample. Requires sentencing courts to create and implement biological sample collection protocols, and to order biological samples at the time of sentencing.

(3) Limits the ability of a defendant accused of sex offenses to introduce evidence of a victim's past sexual behavior on a victim's social media account to attack the victim's credibility, or to prove

the victim's consent, unless the past sexual behavior on a victim's social media account relates to the offense.

(4) Modifies the statutory rights of crime victims, survivors, and witnesses to apply to any adult or juvenile criminal proceeding and any sexually violent predator commitment proceeding. Provides that if a victim, survivor of a victim, or witness of a crime is denied a right, that person may seek an order directing compliance by the relevant party. Provides that compliance with the right is the sole available remedy.

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