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**SUBSTITUTE HOUSE BILL 1088**

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**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)

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

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

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

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

(b) Subject to amounts appropriated for this purpose, no later than June 30, 2022, the Washington association of prosecuting attorneys shall develop and thereafter maintain online training for potential impeachment disclosures consistent with its best practices policy.

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

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

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

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

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

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

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