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**HOUSE BILL 1916**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Orwall, Mosbrucker, Santos, Simmons, Ortiz-Self, Walen, J. Johnson, Taylor, Wylie, Rule, Steele, Goodman, Griffey, Wicks, Senn, Graham, Bronoske, Riccelli, Davis, Macri, and Valdez

AN ACT Relating to supporting crime victims and witnesses by promoting victim-centered, trauma-informed responses in the legal system; amending RCW 7.68.170, 7.69.030, 43.101.272, 43.101.276, and 43.101.278; adding a new section to chapter 43.10 RCW; adding a new section to chapter 28A.630 RCW; adding new sections to chapter 43.101 RCW; adding a new section to chapter 70.02 RCW; repealing RCW 43.101.270; providing an effective date; and providing expiration dates.

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

**Sec.**  RCW 7.68.170 and 1979 ex.s. c 219 s 11 are each amended to read as follows:

(1) No costs incurred by a hospital or other emergency medical facility located in the state for the examination of the victim of a sexual assault, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault, regardless of whether the victim is a state resident. Such costs shall be paid by the state pursuant to this chapter.

(2) A sexual assault victim who is a state resident and who receives an examination performed for the purposes of gathering evidence for possible prosecution by a hospital or other emergency medical facility located outside of the state may seek reimbursement for any costs charged to him or her by the hospital or facility, and those costs shall be reimbursed by the state pursuant to this chapter. The department may establish arrangements with any hospital or facility located out of state to allow costs for examinations of state residents to be paid according to the same procedures under subsection (1) of this section so as to prevent such residents from being charged directly or indirectly for the examination.

**Sec.**  RCW 7.69.030 and 2009 c 138 s 5 are each amended to read as follows:

(1) There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any ((~~criminal court and/or juvenile court~~)) judicial proceeding, including, where applicable, any adult or juvenile criminal case and any civil commitment proceeding under chapter 10.77 or 71.09 RCW:

((~~(1)~~)) (a) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

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

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

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

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

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

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

((~~(8)~~)) (h) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process or the civil commitment process under chapter 10.77 or 71.09 RCW in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

((~~(9)~~)) (i) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in RCW 49.76.020, shall be notified of their right to reasonable leave from employment under chapter 49.76 RCW;

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

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

((~~(12)~~)) (l) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing or disposition hearing for felony convictions or final determination under chapter 10.77 or 71.09 RCW upon request by a victim or survivor;

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

((~~(14)~~)) (n) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions; and

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

(2) If a victim, survivor of a victim, or witness of a crime is denied a right enumerated in this section, he or she may seek an order directing compliance by the relevant party or parties by filing a petition in the superior court in the county in which the crime occurred and providing notice of such petition to the relevant party or parties. Compliance with the right is the sole available remedy. The court shall expedite consideration of a petition filed under this subsection.

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

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

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

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

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

(A) One member representing each of the following:

(I) The Washington state patrol;

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

(III) The Washington association of prosecuting attorneys;

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

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The office of the attorney general; and

(XI) A sexual assault nurse examiner; and

(B) Two members representing survivors of sexual assault.

(b) The appointed membership of the joint legislative task force on sexual assault forensic examination best practices transfers to the advisory group administered by the office of the attorney general pursuant to this section. However, the prior cochairs of the joint legislative task force on sexual assault forensic examination best practices may recommend that the attorney general replace appointees who were inactive or otherwise absent from previous meetings.

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

(a) Researching and determining the number of untested sexual assault kits in Washington state;

(b) Researching the locations where the untested sexual assault kits are stored;

(c) Researching, reviewing, and making recommendations regarding legislative policy options for reducing the number of untested sexual assault kits;

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

(e) Researching, identifying, and making recommendations for securing nonstate funding for testing the sexual assault kits, and reporting on progress made toward securing such funding;

(f) Prior to the end of the moratorium under RCW 70.125.101, developing policies and submitting recommendations on the storage, retention, and destruction of unreported sexual assault kits as well as protocols for engaging with survivors associated with unreported sexual assault kits;

(g) Monitoring implementation of state and federal legislative changes;

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

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

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

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

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

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

(7) This section expires July 1, 2026.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

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

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

(4) ((~~The commission shall develop the training and begin offering it by July 1, 2018.~~)) Officers assigned to regularly investigate sexual assault involving adult victims shall complete the training within one year of being assigned ((~~or by July 1, 2020, whichever is later~~)).

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

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

(2) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault and the neurobiology of trauma.

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

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct an annual case review program. The program must review case files from law enforcement agencies and prosecuting attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The program must include:

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

(b) A comparison of cases involving investigators ((~~and~~)), interviewers, and prosecutors who have participated in training to cases involving investigators ((~~and~~)), interviewers, and prosecutors who have not participated in training;

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

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

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

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall:

(a) Research best practices for a victim-centered, trauma-informed approach to responding to sexual assault and supporting survivors in schools;

(b) Conduct listening sessions across the state for the purpose of assessing challenges with responding to sexual assault and supporting survivors in schools;

(c) Update model protocols for responding to sexual assault and supporting survivors in schools;

(d) Develop a plan for deploying victim-centered, trauma-informed training for school administrators and counselors, based on best practices for responding to sexual assault and supporting survivors in schools and informed by the requirements of Title IX of the education amendments of 1972; and

(e) Review current legal requirements mandating educators and staff report suspected sexual assault and assess whether changes to those requirements should be made to align them with best practices for responding to sexual assault and supporting survivors in schools.

(2) In completing the requirements of this section, the office of the superintendent of public instruction shall consult with the department of children, youth, and families, law enforcement professionals, national and state organizations supporting the interests of sexual assault survivors, victims' advocates, educators, school administrators, school counselors, and sexual assault survivors.

(3) The office of the superintendent of public instruction shall submit to the governor and the appropriate committees of the legislature a preliminary report by December 1, 2022, and a final report, including a summary of its findings and recommendations, by October 1, 2023.

(4) This section expires July 1, 2024.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall, in consultation with the special resource prosecutor under section 9 of this act, develop and conduct specialized, intensive, and integrative training for persons responsible for prosecuting sexual assault cases involving adult victims.

(2) The training must:

(a) Be based on a victim-centered, trauma-informed approach to prosecuting sexual assaults, including the following goals: Recognizing the nature and consequences of victimization; prioritizing the safety and well-being of victims; and recognizing the needs of special populations;

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

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

(d) Educate prosecutors on the best practices for communicating with victims throughout the criminal justice process;

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

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

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

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

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

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

(a) To assist with the development and implementation of training under section 8 of this act;

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

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

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

(e) To consult with the commission, the office of the attorney general, and the sexual assault forensic examination best practices advisory group under section 3 of this act with respect to developing and implementing best practices for prosecuting sexual assault cases across the state; and

(f) To comply with other requirements established by the commission under this section.

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

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

A disclosure authorization to a health care provider or health care facility authorizing disclosure of information to law enforcement regarding a forensic examination performed for the purposes of gathering evidence for possible prosecution of a criminal offense must be valid until the end of all related criminal proceedings or a later event selected by the provider, facility, patient, or patient's representative, unless the patient or patient's representative requests a different expiration date or event for the disclosure authorization.

NEW SECTION. **Sec.**  RCW 43.101.270 (Sexual assault—Training for investigating and prosecuting) and 2015 c 286 s 2 & 1991 c 267 s 2 are each repealed.

NEW SECTION. **Sec.**  Section 5 of this act takes effect July 1, 2023.

**--- END ---**