
HOUSE BILL 1041

State of Washington

67th Legislature

2021 Regular Session

By Representatives Springer, Cody, Ortiz-Self, Gregerson, Frame, and Jacobsen

Prefiled 12/22/20. Read first time 01/11/21. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to sunshine committee recommendations regarding
2 juveniles; amending RCW 7.69A.020, 7.69A.030, 10.97.130, 13.50.050,
3 and 42.56.240; and reenacting and amending RCW 42.56.230.

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

5 **Sec. 1.** RCW 7.69A.020 and 1993 c 350 s 7 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Crime" means an act punishable as a felony, gross
10 misdemeanor, or misdemeanor under the laws of this state or
11 equivalent federal or local law.

12 (2) "Child" means any living child under the age of eighteen
13 years.

14 (3) "Victim" means a living person against whom a crime has been
15 committed.

16 (4) "Witness" means a person who has been or is expected to be
17 summoned to testify for the prosecution in a criminal action, or who
18 by reason of having relevant information is subject to call or likely
19 to be called as a witness for the prosecution, whether or not an
20 action or proceeding has been commenced.

21 (5) "Family member" means child, parent, or legal guardian.

1 (6) "Advocate" means any person, including a family member not
2 accused of a crime, who provides support to a child victim or child
3 witness during any legal proceeding.

4 (7) "Court proceedings" means any court proceeding conducted
5 during the course of the prosecution of a crime committed against a
6 child victim, including pretrial hearings, trial, sentencing, or
7 appellate proceedings.

8 (8) "Identifying information" (~~means~~) of a living child victim
9 or witness, includes the child's name, address, telephone number,
10 email address, social media identifier, image, location (~~(, and~~
11 ~~photograph, and in cases in which the child is a relative or~~
12 ~~stepchild of the alleged perpetrator, identification of)) of the
13 child (except the location of the assault when it is not the child's
14 address), and the surname of the child's parent if it is the same as
15 the child's and the parent is not the alleged perpetrator. In cases
16 where the child victim is a victim of sexual assault, "identifying
17 information" also includes the relationship between the child and the
18 alleged perpetrator when the alleged perpetrator is a relative or
19 step relative of the child victim.~~

20 (9) "Crime victim/witness program" means any crime victim and
21 witness program of a county or local law enforcement agency or
22 prosecutor's office, any rape crisis center's sexual assault victim
23 advocacy program as provided in chapter 70.125 RCW, any domestic
24 violence program's legal and community advocate program for domestic
25 violence victims as provided in chapter 70.123 RCW, or any other
26 crime victim advocacy program which provides trained advocates to
27 assist crime victims during the investigation and prosecution of the
28 crime.

29 **Sec. 2.** RCW 7.69A.030 and 2004 c 120 s 9 are each amended to
30 read as follows:

31 In addition to the rights of victims and witnesses provided for
32 in RCW 7.69.030, there shall be every reasonable effort made by law
33 enforcement agencies, prosecutors, and judges to assure that child
34 victims and witnesses are afforded the rights enumerated in this
35 section. Except as provided in RCW 7.69A.050 regarding child victims
36 or child witnesses of violent crimes, sex crimes, or child abuse, the
37 enumeration of rights shall not be construed to create substantive
38 rights and duties, and the application of an enumerated right in an
39 individual case is subject to the discretion of the law enforcement

1 agency, prosecutor, or judge. Child victims and witnesses have the
2 following rights, which apply to any criminal court and/or juvenile
3 court proceeding:

4 (1) To have explained in language easily understood by the child,
5 all legal proceedings and/or police investigations in which the child
6 may be involved.

7 (2) With respect to child victims of sex or violent crimes or
8 child abuse, to have a crime victim advocate from a crime victim/
9 witness program, or any other support person of the victim's
10 choosing, present at any prosecutorial or defense interviews with the
11 child victim. This subsection applies if practical and if the
12 presence of the crime victim advocate or support person does not
13 cause any unnecessary delay in the investigation or prosecution of
14 the case. The role of the crime victim advocate is to provide
15 emotional support to the child victim and to promote the child's
16 feelings of security and safety.

17 (3) To be provided, whenever possible, a secure waiting area
18 during court proceedings and to have an advocate or support person
19 remain with the child prior to and during any court proceedings.

20 (4) To ~~((not have the names, addresses, nor photographs of the))~~
21 exempt from public disclosure under chapter 42.56 RCW, identifying
22 information as defined in RCW 7.69A.020, of a living child victim or
23 witness, and to not have identifying information disclosed by any law
24 enforcement agency, prosecutor's office, or state agency without the
25 permission of the child victim, child witness, parents, or legal
26 guardians to anyone except another law enforcement agency,
27 prosecutor, defense counsel, or private or governmental agency that
28 provides services to the child victim or witness.

29 (5) To allow an advocate to make recommendations to the
30 prosecuting attorney about the ability of the child to cooperate with
31 prosecution and the potential effect of the proceedings on the child.

32 (6) To allow an advocate to provide information to the court
33 concerning the child's ability to understand the nature of the
34 proceedings.

35 (7) To be provided information or appropriate referrals to social
36 service agencies to assist the child and/or the child's family with
37 the emotional impact of the crime, the subsequent investigation, and
38 judicial proceedings in which the child is involved.

39 (8) To allow an advocate to be present in court while the child
40 testifies in order to provide emotional support to the child.

1 (9) To provide information to the court as to the need for the
2 presence of other supportive persons at the court proceedings while
3 the child testifies in order to promote the child's feelings of
4 security and safety.

5 (10) To allow law enforcement agencies the opportunity to enlist
6 the assistance of other professional personnel such as child
7 protection services, victim advocates or prosecutorial staff trained
8 in the interviewing of the child victim.

9 (11) With respect to child victims of violent or sex crimes or
10 child abuse, to receive either directly or through the child's parent
11 or guardian if appropriate, at the time of reporting the crime to law
12 enforcement officials, a written statement of the rights of child
13 victims as provided in this chapter. The written statement shall
14 include the name, address, and telephone number of a county or local
15 crime victim/witness program, if such a crime victim/witness program
16 exists in the county.

17 **Sec. 3.** RCW 10.97.130 and 2019 c 300 s 2 are each amended to
18 read as follows:

19 (1) Information revealing the specific details that describe the
20 alleged or proven child victim of sexual assault under age eighteen,
21 or the identity or contact information of an alleged or proven child
22 victim under age eighteen is confidential and not subject to release
23 to the press or public without the permission of the child victim and
24 the child's legal guardian. Identifying information (~~includes the~~
25 ~~child victim's name, addresses, location, photographs, and in cases~~
26 ~~in which the child victim is a relative, stepchild, or stepsibling of~~
27 ~~the alleged perpetrator, identification of the relationship between~~
28 ~~the child and the alleged perpetrator~~) is defined in RCW 7.69A.020.
29 Contact information includes phone numbers, email addresses, social
30 media profiles, and user names and passwords. Contact information or
31 information identifying the child victim of sexual assault may be
32 released to law enforcement, prosecutors, judges, defense attorneys,
33 or private or governmental agencies that provide services to the
34 child victim of sexual assault. Prior to release of any criminal
35 history record information, the releasing agency shall delete any
36 contact information or information identifying a child victim of
37 sexual assault from the information except as provided in this
38 section.

1 (2) This section does not apply to court documents or other
2 materials admitted in open judicial proceedings.

3 **Sec. 4.** RCW 13.50.050 and 2014 c 175 s 3 are each amended to
4 read as follows:

5 (1) This section and RCW 13.50.260 and 13.50.270 govern records
6 relating to the commission of juvenile offenses, including records
7 relating to diversions.

8 (2) The official juvenile court file of any alleged or proven
9 juvenile offender shall be open to public inspection, unless sealed
10 pursuant to RCW 13.50.260.

11 (3) All records other than the official juvenile court file are
12 confidential and may be released only as provided in this
13 chapter(~~(7)~~) and RCW 13.40.215 and 4.24.550.

14 (4) Except as otherwise provided in this chapter, records
15 retained or produced by any juvenile justice or care agency may be
16 released to other participants in the juvenile justice or care system
17 only when an investigation or case involving the juvenile in question
18 is being pursued by the other participant or when that other
19 participant is assigned the responsibility for supervising the
20 juvenile.

21 (5) Except as provided in RCW 4.24.550, information not in an
22 official juvenile court file concerning a juvenile or a juvenile's
23 family may be released to the public only when that information could
24 not reasonably be expected to identify the juvenile or the juvenile's
25 family.

26 (6) Notwithstanding any other provision of this chapter, (~~the~~
27 ~~release, to the juvenile or his or her attorney, of~~) law enforcement
28 and prosecuting attorneys' records pertaining to investigation,
29 diversion, and prosecution of juvenile offenses (~~shall be governed~~
30 ~~by the rules of discovery and other rules of law applicable in adult~~
31 ~~criminal investigations and prosecutions~~) must be released to the
32 juvenile offender or his or her attorney, parent, or legal guardian
33 upon request.

34 (7) (~~Upon the decision to arrest or the arrest, law enforcement~~
35 ~~and prosecuting attorneys may cooperate with schools in releasing~~
36 ~~information to a school pertaining to the investigation, diversion,~~
37 ~~and prosecution of a juvenile attending the school.~~) Upon the
38 decision to arrest or the arrest, unredacted incident reports may be
39 released to a school, unless (~~releasing the records would~~

1 ~~jeopardize))~~ redaction is necessary to avoid jeopardizing the
2 investigation or prosecution or ~~((endanger))~~ endangering witnesses(~~(-~~
3 ~~If release of incident reports would jeopardize the investigation or~~
4 ~~prosecution or endanger witnesses, law enforcement and prosecuting~~
5 ~~attorneys may release information to the maximum extent possible to~~
6 ~~assist schools in protecting)), other students, staff, ~~((and))~~ or
7 school property.~~

8 (8) The juvenile court and the prosecutor may set up and maintain
9 a central recordkeeping system which may receive information on all
10 alleged juvenile offenders against whom a complaint has been filed
11 pursuant to RCW 13.40.070 whether or not their cases are currently
12 pending before the court. The central recordkeeping system may be
13 computerized. If a complaint has been referred to a diversion unit,
14 the diversion unit shall promptly report to the juvenile court or the
15 prosecuting attorney when the juvenile has agreed to diversion. An
16 offense shall not be reported as criminal history in any central
17 recordkeeping system without notification by the diversion unit of
18 the date on which the offender agreed to diversion.

19 (9) Upon request of the victim of a crime or the victim's
20 immediate family, ~~((the identity of an alleged or proven juvenile~~
21 ~~offender alleged or found to have committed a crime against the~~
22 ~~victim and the identity of the alleged or proven juvenile offender's~~
23 ~~parent, guardian, or custodian and the circumstance of the alleged or~~
24 ~~proven crime))~~ incident reports shall be released to the victim of
25 the crime or the victim's immediate family.

26 (10) Subject to the rules of discovery applicable in adult
27 criminal prosecutions, the juvenile offense records of an adult
28 criminal defendant or witness in an adult criminal proceeding shall
29 be released upon request to prosecution and defense counsel after a
30 charge has actually been filed. The juvenile offense records of any
31 adult convicted of a crime and placed under the supervision of the
32 adult corrections system shall be released upon request to the adult
33 corrections system.

34 (11) Any juvenile to whom the provisions of this section or RCW
35 13.50.260 or 13.50.270 may apply shall be given written notice of his
36 or her rights under this section at the time of his or her
37 disposition hearing or during the diversion process.

38 (12) Nothing in this section or RCW 13.50.260 or 13.50.270 may be
39 construed to prevent a crime victim or a member of the victim's

1 family from divulging the identity of the alleged or proven juvenile
2 offender or his or her family when necessary in a civil proceeding.

3 (13) Except as provided in RCW 13.50.270(2), no identifying
4 information held by the Washington state patrol in accordance with
5 chapter 43.43 RCW is subject to destruction or sealing under this
6 section. For the purposes of this subsection, identifying information
7 includes photographs, fingerprints, palmprints, soleprints, toeprints
8 and any other data that identifies a person by physical
9 characteristics, name, birthdate or address, but does not include
10 information regarding criminal activity, arrest, charging, diversion,
11 conviction or other information about a person's treatment by the
12 criminal justice system or about the person's behavior.

13 (14) Information identifying child victims under age eighteen who
14 are victims of sexual assaults by juvenile offenders is confidential
15 and not subject to release to the press or public without the
16 permission of the child victim or the child's legal guardian.
17 Identifying information includes the child victim's name, addresses,
18 location, photographs, and in cases in which the child victim is a
19 relative of the alleged perpetrator, identification of the
20 relationship between the child and the alleged perpetrator.
21 Information identifying a child victim of sexual assault may be
22 released to law enforcement, prosecutors, judges, defense attorneys,
23 or private or governmental agencies that provide services to the
24 child victim of sexual assault.

25 **Sec. 5.** RCW 42.56.230 and 2019 c 470 s 8, 2019 c 239 s 2, and
26 2019 c 213 s 2 are each reenacted and amended to read as follows:

27 The following personal information is exempt from public
28 inspection and copying under this chapter, unless the agency has
29 received consent for disclosure from the subject of the information
30 or, in the case of a child, from the child's parent or guardian:

31 (1) Personal information in any files maintained for students in
32 public schools, patients or clients of public institutions or public
33 health agencies, or welfare recipients;

34 (2)(a) Personal information:

35 (i) For a child enrolled in licensed child care in any files
36 maintained by the department of children, youth, and families;

37 (ii) For a child enrolled in a public or nonprofit program
38 serving or pertaining to children, adolescents, or students,
39 including but not limited to early learning or child care services,

1 parks and recreation programs, youth development programs, and after-
2 school programs;

3 (iii) For the family members or guardians of a child who is
4 subject to the exemption under this subsection (2) if the family
5 member or guardian has the same last name as the child or if the
6 family member or guardian resides at the same address as the child
7 and disclosure of the family member's or guardian's information would
8 result in disclosure of the personal information exempted under
9 (a)(i) and (ii) of this subsection; or

10 (iv) For substitute caregivers who are licensed or approved to
11 provide overnight care of children by the department of children,
12 youth, and families.

13 (b) Emergency contact information under this subsection (2) may
14 be provided to appropriate authorities and medical personnel for the
15 purpose of treating the individual during an emergency situation;

16 (3) Personal information in files maintained for employees,
17 appointees, or elected officials of any public agency to the extent
18 that disclosure would violate their right to privacy;

19 (4) Information required of any taxpayer in connection with the
20 assessment or collection of any tax if the disclosure of the
21 information to other persons would: (a) Be prohibited to such persons
22 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance
23 authorized under RCW 35.102.145; or (b) violate the taxpayer's right
24 to privacy or result in unfair competitive disadvantage to the
25 taxpayer;

26 (5) Credit card numbers, debit card numbers, electronic check
27 numbers, card expiration dates, or bank or other financial
28 information as defined in RCW 9.35.005 including social security
29 numbers, except when disclosure is expressly required by or governed
30 by other law;

31 (6) Personal and financial information related to a small loan or
32 any system of authorizing a small loan in RCW 31.45.093;

33 (7)(a) Any record used to prove identity, age, residential
34 address, social security number, or other personal information
35 required to apply for a driver's license or identicard.

36 (b) Information provided under RCW 46.20.111 that indicates that
37 an applicant declined to register with the selective service system.

38 (c) Any record pertaining to a vehicle license plate, driver's
39 license, or identicard issued under RCW 46.08.066 that, alone or in
40 combination with any other records, may reveal the identity of an

1 individual, or reveal that an individual is or was, performing an
2 undercover or covert law enforcement, confidential public health
3 work, public assistance fraud, or child support investigative
4 activity. This exemption does not prevent the release of the total
5 number of vehicle license plates, drivers' licenses, or identicards
6 that, under RCW 46.08.066, an agency or department has applied for,
7 been issued, denied, returned, destroyed, lost, and reported for
8 misuse.

9 (d) Any record pertaining to a vessel registration issued under
10 RCW 88.02.330 that, alone or in combination with any other records,
11 may reveal the identity of an individual, or reveal that an
12 individual is or was, performing an undercover or covert law
13 enforcement activity. This exemption does not prevent the release of
14 the total number of vessel registrations that, under RCW 88.02.330,
15 an agency or department has applied for, been issued, denied,
16 returned, destroyed, lost, and reported for misuse;

17 (8) All information related to individual claims resolution
18 structured settlement agreements submitted to the board of industrial
19 insurance appeals under RCW 51.04.063, other than final orders from
20 the board of industrial insurance appeals.

21 Upon request by the legislature, the department of licensing
22 shall provide a report to the legislature containing all of the
23 information in subsection (7)(c) and (d) of this section that is
24 subject to public disclosure;

25 (9) Voluntarily submitted information contained in a database
26 that is part of or associated with enhanced 911 emergency
27 communications systems, or information contained or used in emergency
28 notification systems as provided under RCW 38.52.575 and 38.52.577;

29 (10) Until the person reaches eighteen years of age, information,
30 otherwise disclosable under chapter 29A.08 RCW, that relates to a
31 future voter, except for the purpose of processing and delivering
32 ballots;

33 (11) All information submitted by a person to the state, either
34 directly or through a state-licensed gambling establishment, or
35 Indian tribes, or tribal enterprises that own gambling operations or
36 facilities with class III gaming compacts, as part of the self-
37 exclusion program established in RCW 9.46.071 or 67.70.040 for people
38 with a gambling problem or gambling disorder; and

1 (12) Names, addresses, or other personal information of
2 individuals who participated in the bump-fire stock buy-back program
3 under RCW 43.43.920.

4 **Sec. 6.** RCW 42.56.240 and 2019 c 300 s 1 are each amended to
5 read as follows:

6 The following investigative, law enforcement, and crime victim
7 information is exempt from public inspection and copying under this
8 chapter:

9 (1) (~~Specific~~) (a) Except as provided in (b) of this
10 subsection, specific intelligence information and specific
11 investigative records compiled by investigative, law enforcement, and
12 penology agencies, and state agencies vested with the responsibility
13 to discipline members of any profession, the nondisclosure of which
14 is essential to effective law enforcement or for the protection of
15 any person's right to privacy;

16 (b) For the department of children, youth, and families, records
17 regarding an on-going child protective services investigation in
18 conjunction with an early learning licensing complaint inspection,
19 the records must remain exempt during the course of the child
20 protective services investigation. At the conclusion of the child
21 protective services investigation, all responsive records must be
22 made available to the public when requested;

23 (2) Information revealing the identity of persons who are
24 witnesses to or victims of crime or who file complaints with
25 investigative, law enforcement, or penology agencies, other than the
26 commission, if disclosure would endanger any person's life, physical
27 safety, or property. If at the time a complaint is filed the
28 complainant, victim, or witness indicates a desire for disclosure or
29 nondisclosure, such desire shall govern. However, all complaints
30 filed with the commission about any elected official or candidate for
31 public office must be made in writing and signed by the complainant
32 under oath;

33 (3) Any records of investigative reports prepared by any state,
34 county, municipal, or other law enforcement agency pertaining to sex
35 offenses contained in chapter 9A.44 RCW or sexually violent offenses
36 as defined in RCW 71.09.020, which have been transferred to the
37 Washington association of sheriffs and police chiefs for permanent
38 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

1 (4) License applications under RCW 9.41.070; copies of license
2 applications or information on the applications may be released to
3 law enforcement or corrections agencies;

4 (5) Identifying information (~~((revealing the specific details that~~
5 ~~describe an alleged or proven child victim of sexual assault under~~
6 ~~age eighteen, or the identity or contact information of an alleged or~~
7 ~~proven child victim of sexual assault who is under age eighteen.~~
8 ~~Identifying information includes the child victim's name, addresses,~~
9 ~~location, photograph, and in cases in which the child victim is a~~
10 ~~relative, stepchild, or stepsibling of the alleged perpetrator,~~
11 ~~identification of the relationship between the child and the alleged~~
12 ~~perpetrator. Contact information includes phone numbers, email~~
13 ~~addresses, social media profiles, and usernames and passwords)), as~~

14 defined in RCW 7.69A.020, of child victims and witnesses;

15 (6) Information contained in a local or regionally maintained
16 gang database as well as the statewide gang database referenced in
17 RCW 43.43.762;

18 (7) Data from the electronic sales tracking system established in
19 RCW 69.43.165;

20 (8) Information submitted to the statewide unified sex offender
21 notification and registration program under RCW 36.28A.040(6) by a
22 person for the purpose of receiving notification regarding a
23 registered sex offender, including the person's name, residential
24 address, and email address;

25 (9) Personally identifying information collected by law
26 enforcement agencies pursuant to local security alarm system programs
27 and vacation crime watch programs. Nothing in this subsection shall
28 be interpreted so as to prohibit the legal owner of a residence or
29 business from accessing information regarding his or her residence or
30 business;

31 (10) The felony firearm offense conviction database of felony
32 firearm offenders established in RCW 43.43.822;

33 (11) The identity of a state employee or officer who has in good
34 faith filed a complaint with an ethics board, as provided in RCW
35 42.52.410, or who has in good faith reported improper governmental
36 action, as defined in RCW 42.40.020, to the auditor or other public
37 official, as defined in RCW 42.40.020;

38 (12) The following security threat group information collected
39 and maintained by the department of corrections pursuant to RCW
40 72.09.745: (a) Information that could lead to the identification of a

1 person's security threat group status, affiliation, or activities;
2 (b) information that reveals specific security threats associated
3 with the operation and activities of security threat groups; and (c)
4 information that identifies the number of security threat group
5 members, affiliates, or associates;

6 (13) The global positioning system data that would indicate the
7 location of the residence of an employee or worker of a criminal
8 justice agency as defined in RCW 10.97.030;

9 (14) Body worn camera recordings to the extent nondisclosure is
10 essential for the protection of any person's right to privacy as
11 described in RCW 42.56.050, including, but not limited to, the
12 circumstances enumerated in (a) of this subsection. A law enforcement
13 or corrections agency shall not disclose a body worn camera recording
14 to the extent the recording is exempt under this subsection.

15 (a) Disclosure of a body worn camera recording is presumed to be
16 highly offensive to a reasonable person under RCW 42.56.050 to the
17 extent it depicts:

18 (i) (A) Any areas of a medical facility, counseling, or
19 therapeutic program office where:

20 (I) A patient is registered to receive treatment, receiving
21 treatment, waiting for treatment, or being transported in the course
22 of treatment; or

23 (II) Health care information is shared with patients, their
24 families, or among the care team; or

25 (B) Information that meets the definition of protected health
26 information for purposes of the health insurance portability and
27 accountability act of 1996 or health care information for purposes of
28 chapter 70.02 RCW;

29 (ii) The interior of a place of residence where a person has a
30 reasonable expectation of privacy;

31 (iii) An intimate image;

32 (iv) A minor;

33 (v) The body of a deceased person;

34 (vi) The identity of or communications from a victim or witness
35 of an incident involving domestic violence as defined in RCW
36 10.99.020 or sexual assault as defined in RCW 70.125.030, or
37 disclosure of intimate images as defined in RCW 9A.86.010. If at the
38 time of recording the victim or witness indicates a desire for
39 disclosure or nondisclosure of the recorded identity or
40 communications, such desire shall govern; or

1 (vii) The identifiable location information of a community-based
2 domestic violence program as defined in RCW 70.123.020, or emergency
3 shelter as defined in RCW 70.123.020.

4 (b) The presumptions set out in (a) of this subsection may be
5 rebutted by specific evidence in individual cases.

6 (c) In a court action seeking the right to inspect or copy a body
7 worn camera recording, a person who prevails against a law
8 enforcement or corrections agency that withholds or discloses all or
9 part of a body worn camera recording pursuant to (a) of this
10 subsection is not entitled to fees, costs, or awards pursuant to RCW
11 42.56.550 unless it is shown that the law enforcement or corrections
12 agency acted in bad faith or with gross negligence.

13 (d) A request for body worn camera recordings must:

14 (i) Specifically identify a name of a person or persons involved
15 in the incident;

16 (ii) Provide the incident or case number;

17 (iii) Provide the date, time, and location of the incident or
18 incidents; or

19 (iv) Identify a law enforcement or corrections officer involved
20 in the incident or incidents.

21 (e) (i) A person directly involved in an incident recorded by the
22 requested body worn camera recording, an attorney representing a
23 person directly involved in an incident recorded by the requested
24 body worn camera recording, a person or his or her attorney who
25 requests a body worn camera recording relevant to a criminal case
26 involving that person, or the executive director from either the
27 Washington state commission on African American affairs, Asian
28 Pacific American affairs, or Hispanic affairs, has the right to
29 obtain the body worn camera recording, subject to any exemption under
30 this chapter or any applicable law. In addition, an attorney who
31 represents a person regarding a potential or existing civil cause of
32 action involving the denial of civil rights under the federal or
33 state Constitution, or a violation of a United States department of
34 justice settlement agreement, has the right to obtain the body worn
35 camera recording if relevant to the cause of action, subject to any
36 exemption under this chapter or any applicable law. The attorney must
37 explain the relevancy of the requested body worn camera recording to
38 the cause of action and specify that he or she is seeking relief from
39 redaction costs under this subsection (14) (e).

1 (ii) A law enforcement or corrections agency responding to
2 requests under this subsection (14)(e) may not require the requesting
3 individual to pay costs of any redacting, altering, distorting,
4 pixelating, suppressing, or otherwise obscuring any portion of a body
5 worn camera recording.

6 (iii) A law enforcement or corrections agency may require any
7 person requesting a body worn camera recording pursuant to this
8 subsection (14)(e) to identify himself or herself to ensure he or she
9 is a person entitled to obtain the body worn camera recording under
10 this subsection (14)(e).

11 (f)(i) A law enforcement or corrections agency responding to a
12 request to disclose body worn camera recordings may require any
13 requester not listed in (e) of this subsection to pay the reasonable
14 costs of redacting, altering, distorting, pixelating, suppressing, or
15 otherwise obscuring any portion of the body worn camera recording
16 prior to disclosure only to the extent necessary to comply with the
17 exemptions in this chapter or any applicable law.

18 (ii) An agency that charges redaction costs under this subsection
19 (14)(f) must use redaction technology that provides the least costly
20 commercially available method of redacting body worn camera
21 recordings, to the extent possible and reasonable.

22 (iii) In any case where an agency charges a requestor for the
23 costs of redacting a body worn camera recording under this subsection
24 (14)(f), the time spent on redaction of the recording shall not count
25 towards the agency's allocation of, or limitation on, time or costs
26 spent responding to public records requests under this chapter, as
27 established pursuant to local ordinance, policy, procedure, or state
28 law.

29 (g) For purposes of this subsection (14):

30 (i) "Body worn camera recording" means a video and/or sound
31 recording that is made by a body worn camera attached to the uniform
32 or eyewear of a law enforcement or corrections officer while in the
33 course of his or her official duties; and

34 (ii) "Intimate image" means an individual or individuals engaged
35 in sexual activity, including sexual intercourse as defined in RCW
36 9A.44.010 and masturbation, or an individual's intimate body parts,
37 whether nude or visible through less than opaque clothing, including
38 the genitals, pubic area, anus, or postpubescent female nipple.

39 (h) Nothing in this subsection shall be construed to restrict
40 access to body worn camera recordings as otherwise permitted by law

1 for official or recognized civilian and accountability bodies or
2 pursuant to any court order.

3 (i) Nothing in this section is intended to modify the obligations
4 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,
5 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*
6 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and
7 the relevant Washington court criminal rules and statutes.

8 (j) A law enforcement or corrections agency must retain body worn
9 camera recordings for at least sixty days and thereafter may destroy
10 the records in accordance with the applicable records retention
11 schedule;

12 (15) Any records and information contained within the statewide
13 sexual assault kit tracking system established in RCW 43.43.545;

14 (16)(a) Survivor communications with, and survivor records
15 maintained by, campus-affiliated advocates.

16 (b) Nothing in this subsection shall be construed to restrict
17 access to records maintained by a campus-affiliated advocate in the
18 event that:

19 (i) The survivor consents to inspection or copying;

20 (ii) There is a clear, imminent risk of serious physical injury
21 or death of the survivor or another person;

22 (iii) Inspection or copying is required by federal law; or

23 (iv) A court of competent jurisdiction mandates that the record
24 be available for inspection or copying.

25 (c) "Campus-affiliated advocate" and "survivor" have the
26 definitions in RCW 28B.112.030;

27 (17) Information and records prepared, owned, used, or retained
28 by the Washington association of sheriffs and police chiefs and
29 information and records prepared, owned, used, or retained by the
30 Washington state patrol pursuant to chapter 261, Laws of 2017; and

31 (18) Any and all audio or video recordings of child forensic
32 interviews as defined in chapter 26.44 RCW. Such recordings are
33 confidential and may only be disclosed pursuant to a court order
34 entered upon a showing of good cause and with advance notice to the
35 child's parent, guardian, or legal custodian. However, if the child
36 is an emancipated minor or has attained the age of majority as
37 defined in RCW 26.28.010, advance notice must be to the child.
38 Failure to disclose an audio or video recording of a child forensic

1 interview as defined in chapter 26.44 RCW is not grounds for
2 penalties or other sanctions available under this chapter.

--- **END** ---