
SUBSTITUTE HOUSE BILL 1916

State of Washington

67th Legislature

2022 Regular Session

By House Public Safety (originally sponsored 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)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to supporting crime victims and witnesses by
2 promoting victim-centered, trauma-informed responses in the legal
3 system; amending RCW 7.68.170, 7.69.030, 43.101.272, 43.101.276, and
4 43.101.278; adding a new section to chapter 43.10 RCW; adding a new
5 section to chapter 28A.630 RCW; adding new sections to chapter 43.101
6 RCW; adding a new section to chapter 70.02 RCW; repealing RCW
7 43.101.270; providing an effective date; and providing expiration
8 dates.

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

10 **Sec. 1.** RCW 7.68.170 and 1979 ex.s. c 219 s 11 are each amended
11 to read as follows:

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

19 (2) A sexual assault victim who is a state resident and who
20 receives an examination performed for the purposes of gathering
21 evidence for possible prosecution by a hospital or other emergency

1 medical facility located outside of the state may seek reimbursement
2 for any costs charged to him or her by the hospital or facility, and
3 those costs shall be reimbursed by the state pursuant to this
4 chapter. The department may establish arrangements with any hospital
5 or facility located out of state to allow costs for examinations of
6 state residents to be paid according to the same procedures under
7 subsection (1) of this section so as to prevent such residents from
8 being charged directly or indirectly for the examination.

9 **Sec. 2.** RCW 7.69.030 and 2009 c 138 s 5 are each amended to read
10 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

39 (~~(12)~~) (l) With respect to victims and survivors of victims, to
40 be informed by the prosecuting attorney of the date, time, and place

1 of the trial and of the sentencing or disposition hearing for felony
2 convictions or final determination under chapter 10.77 or 71.09 RCW
3 upon request by a victim or survivor;

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

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

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

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

25 NEW SECTION. Sec. 3. A new section is added to chapter 43.10
26 RCW to read as follows:

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

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

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

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

1 (A) One member representing each of the following:
2 (I) The Washington state patrol;
3 (II) The Washington association of sheriffs and police chiefs;
4 (III) The Washington association of prosecuting attorneys;
5 (IV) The Washington defender association or the Washington
6 association of criminal defense lawyers;
7 (V) The Washington association of cities;
8 (VI) The Washington association of county officials;
9 (VII) The Washington coalition of sexual assault programs;
10 (VIII) The office of crime victims advocacy;
11 (IX) The Washington state hospital association;
12 (X) The office of the attorney general; and
13 (XI) The criminal justice training commission;
14 (B) Two members representing survivors of sexual assault;
15 (C) One member who is a sexual assault nurse examiner;
16 (D) Two members who are law enforcement officers, one from a
17 rural area and one from an urban area of the state;
18 (E) One member who is a prosecuting attorney serving in a county
19 in a rural area of the state; and
20 (F) Two members who are community-based advocates, one from a
21 rural area and one from an urban area of the state.
22 (b) When appointing members under (a)(iii)(D) of this subsection,
23 the office of the attorney general shall solicit recommendations from
24 statewide labor organizations representing law enforcement officers.
25 (2) The duties of the advisory group include, but are not limited
26 to:
27 (a) Researching the best practice models both in state and from
28 other states for collaborative responses to victims of sexual assault
29 from the point the sexual assault kit is collected to the conclusion
30 of the investigation and prosecution of a case, and providing
31 recommendations regarding any existing gaps in Washington and
32 resources that may be necessary to address those gaps;
33 (b) Researching and making recommendations on opportunities to
34 increase access to, and availability of, critical sexual assault
35 nurse examiner services;
36 (c) Monitoring the testing of the backlog of sexual assault kits
37 and the supply chain and distribution of sexual assault kits;
38 (d) Monitoring implementation of state and federal legislative
39 changes;

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

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

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

9 (4) Legislative members of the advisory group must be reimbursed
10 for travel expenses in accordance with RCW 44.04.120. Nonlegislative
11 members, except those representing an employer or organization, are
12 entitled to be reimbursed for travel expenses in accordance with RCW
13 43.03.050 and 43.03.060.

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

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

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

19 **Sec. 4.** RCW 43.101.272 and 2019 c 93 s 5 are each amended to
20 read as follows:

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

29 (2) The training must: Be based on research-based practices and
30 standards; offer participants an opportunity to practice interview
31 skills and receive feedback from instructors; minimize the trauma of
32 all persons who are interviewed during abuse investigations; provide
33 methods of reducing the number of investigative interviews necessary
34 whenever possible; assure, to the extent possible, that investigative
35 interviews are thorough, objective, and complete; recognize needs of
36 special populations; recognize the nature and consequences of
37 victimization; require investigative interviews to be conducted in a
38 manner most likely to permit the interviewed persons the maximum
39 emotional comfort under the circumstances; address record retention

1 and retrieval; address documentation of investigative interviews; and
2 educate investigators on the best practices for notifying victims of
3 the results of forensic analysis of sexual assault kits and other
4 significant events in the investigative process, including for active
5 investigations and cold cases.

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

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

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

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

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

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

7 **Sec. 6.** RCW 43.101.278 and 2021 c 118 s 3 are each amended to
8 read as follows:

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

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

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

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

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

31 (2) The case review program may review and access files,
32 including all reports and recordings, pertaining to closed cases
33 involving allegations of adult sexual assault only. Any law
34 enforcement agency or prosecuting attorney selected for the program
35 by the commission shall make requested case files and other documents
36 available to the commission, provided that the case files are not
37 linked to ongoing, open investigations and that redactions may be
38 made where appropriate and necessary. Agencies and prosecuting
39 attorneys shall include available information on the race and

1 ethnicity of all sexual assault victims in the relevant case files
2 provided to the commission. Case files and other documents must be
3 made available to the commission according to appropriate deadlines
4 established by the commission in consultation with the agency or
5 prosecuting attorney.

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

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

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

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.630
22 RCW to read as follows:

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

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

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

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

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

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

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

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

17 (4) This section expires July 1, 2024.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.101
19 RCW to read as follows:

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

26 (2) The training must:

27 (a) Use a victim-centered, trauma-informed approach to
28 prosecuting sexual assaults including, but not limited to, the
29 following goals: Recognizing the nature and consequences of
30 victimization; prioritizing the safety and well-being of victims; and
31 recognizing the needs of special populations;

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

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

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

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

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

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

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

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.101
14 RCW to read as follows:

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

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

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.02
9 RCW to read as follows:

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

19 NEW SECTION. **Sec. 11.** RCW 43.101.270 (Sexual assault—Training
20 for investigating and prosecuting) and 2015 c 286 s 2 & 1991 c 267 s
21 2 are each repealed.

22 NEW SECTION. **Sec. 12.** Section 5 of this act takes effect July
23 1, 2023.

--- END ---