
HOUSE BILL 1916

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

Read first time 01/11/22. Referred to Committee on Public Safety.

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~~)) judicial proceeding, including, where applicable, any adult
15 or juvenile criminal case and any civil commitment proceeding under
16 chapter 10.77 or 71.09 RCW:

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

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

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

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

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

37 ((~~6~~)) (f) To be provided, whenever practical, a secure waiting
38 area during court proceedings that does not require them to be in
39 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) A sexual assault nurse examiner; and
14 (B) Two members representing survivors of sexual assault.
15 (b) The appointed membership of the joint legislative task force
16 on sexual assault forensic examination best practices transfers to
17 the advisory group administered by the office of the attorney general
18 pursuant to this section. However, the prior cochairs of the joint
19 legislative task force on sexual assault forensic examination best
20 practices may recommend that the attorney general replace appointees
21 who were inactive or otherwise absent from previous meetings.
22 (2) The duties of the advisory group include, but are not limited
23 to:
24 (a) Researching and determining the number of untested sexual
25 assault kits in Washington state;
26 (b) Researching the locations where the untested sexual assault
27 kits are stored;
28 (c) Researching, reviewing, and making recommendations regarding
29 legislative policy options for reducing the number of untested sexual
30 assault kits;
31 (d) Researching the best practice models both in state and from
32 other states for collaborative responses to victims of sexual assault
33 from the point the sexual assault kit is collected to the conclusion
34 of the investigation and prosecution of a case, and providing
35 recommendations regarding any existing gaps in Washington and
36 resources that may be necessary to address those gaps;
37 (e) Researching, identifying, and making recommendations for
38 securing nonstate funding for testing the sexual assault kits, and
39 reporting on progress made toward securing such funding;

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

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

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

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

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

16 (4) Legislative members of the advisory group must be reimbursed
17 for travel expenses in accordance with RCW 44.04.120. Nonlegislative
18 members, except those representing an employer or organization, are
19 entitled to be reimbursed for travel expenses in accordance with RCW
20 43.03.050 and 43.03.060.

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

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

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

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

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

36 (2) The training must: Be based on research-based practices and
37 standards; offer participants an opportunity to practice interview
38 skills and receive feedback from instructors; minimize the trauma of
39 all persons who are interviewed during abuse investigations; provide

1 methods of reducing the number of investigative interviews necessary
2 whenever possible; assure, to the extent possible, that investigative
3 interviews are thorough, objective, and complete; recognize needs of
4 special populations; recognize the nature and consequences of
5 victimization; require investigative interviews to be conducted in a
6 manner most likely to permit the interviewed persons the maximum
7 emotional comfort under the circumstances; address record retention
8 and retrieval; address documentation of investigative interviews; and
9 educate investigators on the best practices for notifying victims of
10 the results of forensic analysis of sexual assault kits and other
11 significant events in the investigative process, including for active
12 investigations and cold cases.

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

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

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

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

1 resources for victims including, but not limited to, material on and
2 references to community-based victim advocates.

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

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

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

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

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

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

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

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

37 (2) The case review program may review and access files,
38 including all reports and recordings, pertaining to closed cases
39 involving allegations of adult sexual assault only. Any law

1 enforcement agency or prosecuting attorney selected for the program
2 by the commission shall make requested case files and other documents
3 available to the commission, provided that the case files are not
4 linked to ongoing, open investigations and that redactions may be
5 made where appropriate and necessary. Agencies and prosecuting
6 attorneys shall include available information on the race and
7 ethnicity of all sexual assault victims in the relevant case files
8 provided to the commission. Case files and other documents must be
9 made available to the commission according to appropriate deadlines
10 established by the commission in consultation with the agency or
11 prosecuting attorney.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) The training must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 NEW SECTION. **Sec. 11.** RCW 43.101.270 (Sexual assault—Training
22 for investigating and prosecuting) and 2015 c 286 s 2 & 1991 c 267 s
23 2 are each repealed.

24 NEW SECTION. **Sec. 12.** Section 5 of this act takes effect July
25 1, 2023.

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