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**SUBSTITUTE SENATE BILL 5776**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Trudeau, Dhingra, Das, Hasegawa, Keiser, Lovelett, Lovick, Nguyen, Nobles, Randall, Saldaña, and C. Wilson)

READ FIRST TIME 01/21/22.

1 AN ACT Relating to creating the criminal justice integrated data  
2 system and a violence and death investigation resource center;  
3 amending RCW 42.56.240 and 43.103.040; adding a new section to  
4 chapter 43.70 RCW; adding a new chapter to Title 10 RCW; creating new  
5 sections; and providing effective dates.

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

7 NEW SECTION. **Sec. 1.** There is a need to dramatically improve  
8 data collection surrounding violence, domestic violence, and deaths  
9 in the state of Washington. Justice agencies in the state, including  
10 courts, law enforcement, corrections, and prosecutors, possess a  
11 wealth of data relating to the public health of Washington citizens.  
12 A centralized data repository will create data linkages between legal  
13 and public health data sets. These linkages will promote a public  
14 health response to violent crime and deaths, and give the legislature  
15 valuable tools in formulating public policy surrounding these  
16 important issues.

17 NEW SECTION. **Sec. 2.** This chapter may be known and cited as the  
18 criminal justice integrated data system act.

1        NEW SECTION.    **Sec. 3.**    (1) There is hereby created the criminal  
2 justice integrated data system to receive, store, secure, and  
3 maintain data and information from local governments, state agencies  
4 and departments, or volunteer nongovernmental entities.

5        (2) The data system shall be managed by the department of health,  
6 which may:

7        (a) Require contributing local governments, state agencies and  
8 departments, or volunteer nongovernmental entities to deliver data  
9 and information in a certain format and on schedules established for  
10 the criminal justice integrated data system; and

11        (b) Enter into or adopt a data-sharing agreement with each  
12 contributing local government, state agency and department, or  
13 volunteer nongovernmental entity. Such agreement must identify the  
14 confidentiality of the information and any conditions or restrictions  
15 on the use of the data or information.

16        (3) The records and data collected and stored by the criminal  
17 justice integrated data system shall be exempt from disclosure as  
18 provided in RCW 42.56.240 or by court rule. The confidentiality of  
19 all records and data collected by the criminal justice integrated  
20 data system shall comply with applicable state and federal laws  
21 governing the privacy of records, data, and personal identifiable  
22 information.

23        NEW SECTION.    **Sec. 4.**    (1) There is hereby created the data  
24 oversight council, to be convened and chaired by the department of  
25 health. All requests for projects, reports, and data analyses  
26 generated from the criminal justice integrated data system must be  
27 approved by the data oversight council.

28        (2) In addition to the chair, the data oversight council shall  
29 consist of the following members or the member's designee:

30        (a) The governor;

31        (b) The chief justice of the Washington state supreme court;

32        (c) The attorney general;

33        (d) The director of the department of corrections;

34        (e) The director of the department of children, youth, and  
35 families;

36        (f) The director of the department of social and health services;

37        (g) The director of the administrative office of the courts;

38        (h) A representative of the Washington association of prosecuting  
39 attorneys;

1 (i) A representative of the Washington association of sheriffs  
2 and police chiefs;

3 (j) A representative of the association of Washington cities;

4 (k) A representative of the Washington state association of  
5 counties;

6 (l) A representative of the office of crime victims advocacy;

7 (m) A representative from the Washington state institute for  
8 public policy;

9 (n) A representative from the office of public defense or a  
10 defense representative;

11 (o) A representative from the Harborview injury prevention and  
12 research center;

13 (p) A representative from the Washington association of coroners  
14 and medical examiners; and

15 (q) A representative from the Washington state association of  
16 county clerks.

17 (3) Members of the data oversight council shall serve without any  
18 additional compensation. All meetings of the council shall be held in  
19 compliance with the open public meetings act as provided in chapter  
20 42.30 RCW.

21 (4) Any projects, reports, or data analyses in final form  
22 produced by persons authorized to conduct research and analyses under  
23 this chapter shall belong to the local government, state agency and  
24 department, or volunteer nongovernmental entity that requests or  
25 creates the report.

26 (5) The contributing local governments, state agencies and  
27 departments, or volunteer nongovernmental entities shall have  
28 priority in requesting any projects, reports, or data analyses to be  
29 produced by persons authorized by the data oversight council. The  
30 data oversight council may, in its discretion, deny any requested  
31 project, report, or data analysis where it determines the request is  
32 unduly burdensome, voluminous, or cost-prohibitive.

33 (6) Members of the data oversight council and all contributing  
34 local governments, state agencies and departments, or volunteer  
35 nongovernmental entities shall be immune from liability to any person  
36 or entity for any invasion of the right to privacy or use of records  
37 or data generated by the criminal justice integrated data system.

38 (7) In collaboration with contributing local governments, state  
39 agencies and departments, or volunteer nongovernmental entities and  
40 the data oversight council, the department of health may establish

1 policies addressing the creation of reports generated through the  
2 query of records and data possessed by the criminal justice  
3 integrated data system.

4 **Sec. 5.** 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 intelligence information and specific investigative  
10 records compiled by investigative, law enforcement, and penology  
11 agencies, and state agencies vested with the responsibility to  
12 discipline members of any profession, the nondisclosure of which is  
13 essential to effective law enforcement or for the protection of any  
14 person's right to privacy;

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

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

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

34 (5) Information revealing the specific details that describe an  
35 alleged or proven child victim of sexual assault under age  
36 (~~eighteen~~) 18, or the identity or contact information of an alleged  
37 or proven child victim of sexual assault who is under age  
38 (~~eighteen~~) 18. Identifying information includes the child victim's  
39 name, addresses, location, photograph, and in cases in which the

1 child victim is a relative, stepchild, or stepsibling of the alleged  
2 perpetrator, identification of the relationship between the child and  
3 the alleged perpetrator. Contact information includes phone numbers,  
4 email addresses, social media profiles, and user names and passwords;

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

8 (7) Data from the electronic sales tracking system established in  
9 RCW 69.43.165;

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

15 (9) Personally identifying information collected by law  
16 enforcement agencies pursuant to local security alarm system programs  
17 and vacation crime watch programs. Nothing in this subsection shall  
18 be interpreted so as to prohibit the legal owner of a residence or  
19 business from accessing information regarding his or her residence or  
20 business;

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

23 (11) The identity of a state employee or officer who has in good  
24 faith filed a complaint with an ethics board, as provided in RCW  
25 42.52.410, or who has in good faith reported improper governmental  
26 action, as defined in RCW 42.40.020, to the auditor or other public  
27 official, as defined in RCW 42.40.020;

28 (12) The following security threat group information collected  
29 and maintained by the department of corrections pursuant to RCW  
30 72.09.745: (a) Information that could lead to the identification of a  
31 person's security threat group status, affiliation, or activities;  
32 (b) information that reveals specific security threats associated  
33 with the operation and activities of security threat groups; and (c)  
34 information that identifies the number of security threat group  
35 members, affiliates, or associates;

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

39 (14) Body worn camera recordings to the extent nondisclosure is  
40 essential for the protection of any person's right to privacy as

1 described in RCW 42.56.050, including, but not limited to, the  
2 circumstances enumerated in (a) of this subsection. A law enforcement  
3 or corrections agency shall not disclose a body worn camera recording  
4 to the extent the recording is exempt under this subsection.

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

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

10 (I) A patient is registered to receive treatment, receiving  
11 treatment, waiting for treatment, or being transported in the course  
12 of treatment; or

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

15 (B) Information that meets the definition of protected health  
16 information for purposes of the health insurance portability and  
17 accountability act of 1996 or health care information for purposes of  
18 chapter 70.02 RCW;

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

21 (iii) An intimate image;

22 (iv) A minor;

23 (v) The body of a deceased person;

24 (vi) The identity of or communications from a victim or witness  
25 of an incident involving domestic violence as defined in RCW  
26 10.99.020 or sexual assault as defined in RCW 70.125.030, or  
27 disclosure of intimate images as defined in RCW 9A.86.010. If at the  
28 time of recording the victim or witness indicates a desire for  
29 disclosure or nondisclosure of the recorded identity or  
30 communications, such desire shall govern; or

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

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

36 (c) In a court action seeking the right to inspect or copy a body  
37 worn camera recording, a person who prevails against a law  
38 enforcement or corrections agency that withholds or discloses all or  
39 part of a body worn camera recording pursuant to (a) of this  
40 subsection is not entitled to fees, costs, or awards pursuant to RCW

1 42.56.550 unless it is shown that the law enforcement or corrections  
2 agency acted in bad faith or with gross negligence.

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

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

6 (ii) Provide the incident or case number;

7 (iii) Provide the date, time, and location of the incident or  
8 incidents; or

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

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

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

35 (iii) A law enforcement or corrections agency may require any  
36 person requesting a body worn camera recording pursuant to this  
37 subsection (14)(e) to identify himself or herself to ensure he or she  
38 is a person entitled to obtain the body worn camera recording under  
39 this subsection (14)(e).

1 (f)(i) A law enforcement or corrections agency responding to a  
2 request to disclose body worn camera recordings may require any  
3 requester not listed in (e) of this subsection to pay the reasonable  
4 costs of redacting, altering, distorting, pixelating, suppressing, or  
5 otherwise obscuring any portion of the body worn camera recording  
6 prior to disclosure only to the extent necessary to comply with the  
7 exemptions in this chapter or any applicable law.

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

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

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

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

24 (ii) "Intimate image" means an individual or individuals engaged  
25 in sexual activity, including sexual intercourse as defined in RCW  
26 9A.44.010 and masturbation, or an individual's intimate body parts,  
27 whether nude or visible through less than opaque clothing, including  
28 the genitals, pubic area, anus, or postpubescent female nipple.

29 (h) Nothing in this subsection shall be construed to restrict  
30 access to body worn camera recordings as otherwise permitted by law  
31 for official or recognized civilian and accountability bodies or  
32 pursuant to any court order.

33 (i) Nothing in this section is intended to modify the obligations  
34 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,  
35 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*  
36 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and  
37 the relevant Washington court criminal rules and statutes.

38 (j) A law enforcement or corrections agency must retain body worn  
39 camera recordings for at least (~~sixty~~) 60 days and thereafter may



1 destroy the records in accordance with the applicable records  
2 retention schedule;

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

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

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

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

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

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

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

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

18 (17) Information and records prepared, owned, used, or retained  
19 by the Washington association of sheriffs and police chiefs and  
20 information and records prepared, owned, used, or retained by the  
21 Washington state patrol pursuant to chapter 261, Laws of 2017;  
22 (~~and~~)

23 (18) Any and all audio or video recordings of child forensic  
24 interviews as defined in chapter 26.44 RCW. Such recordings are  
25 confidential and may only be disclosed pursuant to a court order  
26 entered upon a showing of good cause and with advance notice to the  
27 child's parent, guardian, or legal custodian. However, if the child  
28 is an emancipated minor or has attained the age of majority as  
29 defined in RCW 26.28.010, advance notice must be to the child.  
30 Failure to disclose an audio or video recording of a child forensic  
31 interview as defined in chapter 26.44 RCW is not grounds for  
32 penalties or other sanctions available under this chapter; and

33 (19) Records and information received by the department of health  
34 from any local government, state agency and department, or volunteer  
35 nongovernmental entity for purposes of entry into the criminal  
36 justice integrated data system pursuant to section 3 of this act and  
37 all records created by persons authorized to research and analyze  
38 information entered into the criminal justice integrated data system,  
39 regardless of whether such records were previously exempted from  
40 disclosure or redacted pursuant to state or federal law or court

1 order. This exemption does not apply to projects, reports, and data  
2 analyses approved for release by the data oversight council and  
3 issued by persons authorized to conduct research and analyses as set  
4 forth in section 4 of this act. Records and information relating to  
5 the management of the criminal justice integrated data system shall  
6 not be exempt from disclosure except as otherwise provided by law.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70  
8 RCW to read as follows:

9 (1) The violence and death investigation resource center is  
10 established within the department. The resource center shall:

11 (a) Collect and analyze vital statistics on violence and deaths  
12 in the state to identify localized and statewide trends;

13 (b) Survey medical examiners and coroners in the state to  
14 identify the critical needs of the offices;

15 (c) Develop systems to facilitate information and data sharing  
16 between medical examiner and coroner offices; and

17 (d) Develop best practices for death investigation in the state.

18 (2) A forensic pathologist or a former forensic pathologist must  
19 serve as the director of the resource center.

20 (3) The resource center staff must include a data manager, and  
21 the department shall provide additional staff support as needed.

22 (4) The director of the resource center shall serve as a member  
23 of the Washington state forensic investigations council, established  
24 under chapter 43.103 RCW.

25 (5) The resource center shall submit an annual report to the  
26 legislature detailing the center's work, including trends in violence  
27 and deaths from the previous year, and providing recommendations to  
28 support medical examiner and coroner offices and improve death  
29 investigations in the state.

30 (6) The department may adopt any rules necessary to implement  
31 this section.

32 **Sec. 7.** RCW 43.103.040 and 2010 c 143 s 1 are each amended to  
33 read as follows:

34 The council shall consist of (~~thirteen~~) 14 members who shall be  
35 selected as follows: One county coroner; one county prosecutor; one  
36 county prosecutor who also serves as ex officio county coroner; one  
37 county medical examiner; one county sheriff; one chief of police; the  
38 chief of the state patrol; two members of a county legislative

1 authority; one pathologist who is currently in private practice; two  
2 members of a city legislative authority; the director of the violence  
3 and death investigation resource center established in section 6 of  
4 this act; and one attorney whose practice of law includes significant  
5 experience representing clients charged with criminal offenses.

6 The governor shall appoint members to the council from among the  
7 nominees submitted for each position as follows: The Washington  
8 association of county officials shall submit two nominees each for  
9 the coroner position and the medical examiner position; the  
10 Washington state association of counties shall submit two nominees  
11 each for the two county legislative authority positions; the  
12 association of Washington cities shall submit two nominees each for  
13 the two city legislative authority positions; the Washington  
14 association of prosecuting attorneys shall submit two nominees each  
15 for the county prosecutor-ex officio county coroner and for the  
16 county prosecutor position; the Washington association of sheriffs  
17 and police chiefs shall submit two nominees each for the county  
18 sheriff position and the chief of police position; the Washington  
19 association of pathologists shall submit two nominees for the private  
20 pathologist position; the department of health shall submit one  
21 nominee for the director of the violence and death investigation  
22 resource center position; and the Washington association of criminal  
23 defense lawyers and the Washington defender association shall jointly  
24 submit two nominees for the criminal defense attorney position, one  
25 of whom must actively manage or have significant experience in  
26 managing a public or private criminal defense agency or association,  
27 the other must have experience in cases involving DNA or other  
28 forensic evidence.

29 NEW SECTION. **Sec. 8.** The legislature acknowledges while medical  
30 school enrollment has climbed, forensic pathology has seen steep  
31 declines in residency rotations and in the number of individuals  
32 seeking national certification. The Washington state institute for  
33 public policy shall conduct a study of the critical shortage of  
34 board-certified forensic pathologists and recommend to the  
35 legislature what steps the state can take to foster a robust forensic  
36 pathology community. The study shall cover issues related to Conrad  
37 30/J-1 visa waivers and measures to encourage enrollment in the  
38 University of Washington and Washington State University forensic  
39 pathology residency programs. The Washington state institute for

1 public policy shall report its findings and recommendations to the  
2 governor and the appropriate committees of the legislature by  
3 December 1, 2022.

4 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act  
5 constitute a new chapter in Title 10 RCW.

6 NEW SECTION. **Sec. 10.** Section 3 of this act takes effect  
7 January 1, 2025.

8 NEW SECTION. **Sec. 11.** Section 4 of this act takes effect  
9 January 1, 2024.

10 NEW SECTION. **Sec. 12.** Section 6 of this act takes effect  
11 January 1, 2023.

12 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
13 this act, referencing this act by bill or chapter number, is not  
14 provided by June 30, 2022, in the omnibus appropriations act, this  
15 act is null and void.

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