**1579-S2 AMS LAW S2569.1 - NOT FOR FLOOR USE**

**2SHB 1579** - S COMM AMD

By Committee on Law & Justice

**NOT CONSIDERED 05/17/2023**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 43.10.230 and 1981 c 335 s 1 are each amended to read as follows:

The purpose of RCW 43.10.232 is to grant authority to the attorney general concurrent with the county prosecuting attorneys to investigate and prosecute crimes, including incidents of use of deadly force by an involved officer as those terms are defined in RCW 43.102.010. The purpose of RCW ((~~43.10.234~~)) 10.01.190 is to ((~~insure~~)) ensure access by the attorney general to the procedural powers of the various prosecuting attorneys in exercising criminal prosecutorial authority granted in RCW 43.10.232 or otherwise granted by the legislature.

**Sec.**  RCW 43.10.232 and 1986 c 257 s 16 are each amended to read as follows:

(1)(a) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

((~~(a)~~)) (i) The county prosecuting attorney of the jurisdiction in which the offense has occurred;

((~~(b)~~)) (ii) The governor of the state of Washington; or

((~~(c) A majority of the committee charged with the oversight of the organized crime intelligence unit~~)) (iii) As provided in subsection (2) of this section.

((~~(2)~~)) (b) Such request or concurrence shall be communicated in writing to the attorney general.

((~~(3)~~)) (c) Prior to any prosecution by the attorney general under (a) of this ((~~section~~)) subsection, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution.

(2)(a) The attorney general's office of independent prosecutions shall have concurrent authority and power with the prosecuting attorneys to review investigations and initiate and conduct prosecutions of crimes involving the use of deadly force by involved officers as described in chapter 43.102 RCW. "Prosecution" includes appeals and requests for postconviction relief.

(b) In any prosecution pursuant to this subsection, the office of the attorney general may prosecute related offenses and defendants. Related offenses and defendants for purposes of this subsection are those offenses and defendants that may be joined as provided by law or by the criminal rules for the superior courts of the state of Washington. Related offenses also include any criminal activity related to, or discovered in the course of, the investigation of the case under the jurisdiction of the incident that has a relationship to the investigation.

(c) Nothing in this subsection affects the authority of the prosecuting attorney to conduct prosecutions of crimes committed by an individual who is the subject of the use of force action by the involved officer.

(d) The authority of the office of the attorney general under this subsection applies to any criminal offense involving the use of deadly force by an involved officer and any other investigations within the scope of the office of independent investigations.

(e) The attorney general's office shall be responsible for its expert witness fees and other costs of prosecution associated with prosecutions it undertakes pursuant to this subsection. The attorney general's office shall not be responsible for defense costs, including defense attorneys' fees, defense expert witness fees, or any other cost related to the defense in a criminal prosecution brought pursuant to this subsection. The county in which the action is filed shall be responsible for court administration costs and public defense costs if the defendant so qualifies.

(f) For the purposes of this section, "deadly force" and "involved officer" have the meanings provided in RCW 43.102.010.

**Sec.**  RCW 43.10.234 and 1981 c 335 s 3 are each amended to read as follows:

(1) If both a prosecuting attorney and the attorney general file an information or indictment charging a defendant with substantially the same offense(s), the court shall, upon motion of either the prosecuting attorney or the attorney general:

((~~(1)~~)) (a) Determine whose prosecution of the case will best promote the interests of justice and enter an order designating that person as the prosecuting authority in the case; and

((~~(2)~~)) (b) Enter an order dismissing the information or indictment filed by the person who was not designated the prosecuting authority.

(2) For purposes of designating the prosecuting authority where information or an indictment has been filed by both the office of the attorney general pursuant to RCW 43.10.232(2) and the prosecuting attorney pursuant to RCW 36.27.020, the court shall, in accordance with section 4 of this act, prioritize the public's interest in ensuring a fair and impartial prosecution and trial that is free from bias and even the appearance of bias, prejudice, or conflict of interest. In any judicial proceeding under this subsection, in order to be designated the prosecuting authority, the county prosecuting attorney must overcome a presumption that the county prosecuting attorney has an inherent conflict of interest in any matter arising from an investigation within the scope of the office of independent investigations. Similarly, in any judicial proceeding under this subsection, the attorney general must overcome a presumption that the attorney general has an inherent conflict of interest in any matter in which an investigation of the use of deadly force involved any general authority peace officer at a state agency, an employee of the department of corrections, an employee of a limited authority law enforcement agency, or an employee of a police department at a public institution of higher education.

NEW SECTION. **Sec.**  FINDINGS. The legislature finds that the Washington state Constitution provides that the legislature shall prescribe the duties of both the attorney general and the county prosecuting attorneys. The legislature finds that the close working relationships and intertwined duties between local law enforcement and local prosecutors can give the appearance of bias in review of incidents of use of deadly force by Washington peace officers and corrections officers.

In order to increase public confidence in the fairness of review of investigations of incidents of use of deadly force by Washington peace officers and corrections officers, and to ensure independence and transparency in such reviews, the legislature finds it necessary to create an office of independent prosecutions within the attorney general's office. The legislature further finds that prosecutions by the independent prosecutor will best promote the interests of justice.

NEW SECTION. **Sec.**  CREATION. (1) Subject to the availability of amounts appropriated for this specific purpose, the office of independent prosecutions is hereby established within the office of the attorney general for the purpose of reviewing investigations of use of deadly force by involved officers conducted pursuant to chapter 43.102 RCW. The office is hereby authorized to review such investigations, decline criminal charges when appropriate, file criminal charges when appropriate, and prosecute such cases to the conclusion of the case, including appeals and collateral attacks.

(2) The office shall be a separate division within the attorney general's office. The office shall maintain policies and procedures to ensure that personnel outside the office of independent prosecutions with an actual and perceived conflict, including other employees and divisions of the attorney general's office, shall be screened from the investigation and prosecution of any case.

(3) The office shall have authority to adopt rules for the maintaining of independent decision making and review of investigations of use of deadly force by involved officers.

NEW SECTION. **Sec.**  AUTHORITY OF ATTORNEY GENERAL REGARDING OFFICE OF INDEPENDENT PROSECUTIONS. (1) The attorney general shall determine the compensation and appoint a licensed attorney as independent counsel to lead the office of independent prosecutions. The independent counsel shall have final decision-making authority for:

(a) Hiring and terminating personnel within the office of independent prosecutions;

(b) Declining the filing of criminal charges after thorough review of an investigation of use of deadly force by an involved officer as described in RCW 43.102.010;

(c) Filing criminal charges after thorough review of an investigation of use of deadly force by an involved officer; and

(d) All aspects of the litigation of the office of independent prosecutions.

(2) The attorney general may remove the independent counsel prior to the expiration of the independent counsel's term for misconduct or inability to perform duties. The attorney general shall otherwise be screened from the work of the office of independent prosecutions. The attorney general shall provide no input and have no decision-making authority over whether criminal charges are filed after review of an investigation of use of deadly force by an involved officer.

(3) The office of independent prosecutions shall be subject to the policies and procedures applicable to employees of the attorney general's office except where those policies and procedures conflict with the duties of the office of independent prosecutions.

NEW SECTION. **Sec.**  OFFICE OF INDEPENDENT PROSECUTIONS ADVISORY BOARD. (1)(a) There is created the office of independent prosecutions advisory board. The advisory board shall consist of the following members, appointed by the attorney general:

(i) Three members of the general public representing the community who are not current or former law enforcement, with preference given to individuals representing diverse communities;

(ii) Two members of the general public representing families affected by an incident of the nature under the jurisdiction of the office of independent prosecutions, who are not current or former law enforcement;

(iii) One member representing a federally recognized tribe in Washington, who is not current or former law enforcement;

(iv) One defense attorney representative;

(v) Two prosecuting attorney representatives; and

(vi) Two active or retired law enforcement personnel.

(b) The attorney general, when making appointments to the advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(2) The attorney general shall select the independent counsel from a list of three candidates recommended by the advisory board unless the attorney general declines to select any of the candidates provided. If the attorney general declines to select a candidate proposed by the advisory board, the attorney general may request the advisory board to provide additional qualified nominees for consideration or may offer an alternative candidate who may be appointed following approval by a majority of the advisory board.

(3) In consultation with the independent counsel, the advisory board shall submit a report with related recommendations to the legislature and the governor by November 1, 2026, concerning the cases that have been reviewed by the independent counsel under this chapter, any cases that have come before a judge under RCW 43.10.234, the disposition and outcomes of such cases, and whether there are any changes needed in state law to increase public confidence in the handling of cases under this chapter. The advisory board must seek input from the public in its preparation of this report.

NEW SECTION. **Sec.**  INDEPENDENT COUNSEL. (1) The independent counsel must meet the following minimum criteria for consideration of appointment by the attorney general:

(a) Licensure to practice law in the state of Washington;

(b) No documented criminal or disciplinary history involving dishonesty, discrimination against persons of color or marginalized communities, or abuse of power; and

(c) Submission to a background check, including an assessment of criminal history and research of social media and affiliations to check for racial bias and conflicts of interest, prior to appointment by the attorney general.

(2) Should the independent counsel resign, become incapacitated, or be removed as set forth in this chapter, the attorney general shall appoint an interim independent counsel within 24 hours, which person shall serve as independent counsel until such time as a new independent counsel can be appointed.

(3) The independent counsel shall hold the office for a term of three years and continue to hold office until reappointed or until his or her successor is appointed.

NEW SECTION. **Sec.**  POWERS AND DUTIES OF INDEPENDENT COUNSEL. (1) The independent counsel shall:

(a) Oversee the duties and functions of the office of independent prosecutions pursuant to this chapter;

(b) Hire or contract with attorneys, investigators, advocates for those subjected to deadly force and their surviving family members, and other personnel as necessary to perform investigations and prosecutions conducted by the office, and other duties as required under this chapter;

(c) Plan and provide trainings for office personnel, including hired or contracted attorneys and investigators, that promote recognition of and respect for the diverse races, ethnicities, and cultures of the state;

(d) Enter into contracts and memoranda of understanding as necessary to implement the responsibilities of the office under this chapter;

(e) Ensure that persons subjected to use of deadly force by an involved officer, or their survivors, are kept apprised of the status of the review of the investigation, any charging decisions, all court hearings, and the status of any prosecution; and ensure that all victims of charged crimes, or their surviving family members, are afforded the rights set forth in RCW 7.69.030;

(f) Perform the duties and exercise the powers set forth in this chapter, as well as any additional duties and powers that may be prescribed; and

(g) Establish policies and procedures to ensure that personnel with actual and apparent conflicts are screened from the review of the investigation for criminal charges.

(2) The independent counsel or the independent counsel's designees within the office shall make decisions pertaining to the declining or filing of criminal charges independent of the attorney general.

NEW SECTION. **Sec.**  PERSONNEL. (1) The independent counsel may employ, or enter into contracts with, persons or entities as they determine necessary for the proper discharge of the duties prescribed to the independent counsel in this chapter.

(2) The independent counsel may employ assistant attorneys general, or appoint and contract with special assistant attorneys general, to perform or review investigations and prosecute charged cases.

(3) The independent counsel may employ or contract for other necessary personnel to perform the duties prescribed in this chapter to include, but not limited to:

(a) Forensic services and crime scene investigators;

(b) Liaisons for community, family, and relations with tribal nations and members;

(c) Analysts, including analysts to conduct evaluations on use of force;

(d) Mental health experts;

(e) Bilingual staff, translators, or interpreters;

(f) Other experts as needed; and

(g) All staffing and other needs for the office of independent prosecutions.

(4)(a) The independent counsel shall ensure training is provided to staff and that there is a regular schedule for additional training during the course of employment.

(b) The independent counsel shall ensure that the independent counsel and the independent counsel's staff, including any contracted personnel, engage in trainings that include the following topics:

(i) History of racism in policing, including tribal sovereignty and history of Native Americans within the justice system;

(ii) Implicit and explicit bias;

(iii) Intercultural competency;

(iv) Use of a racial equity lens in conducting the work of the office;

(v) Antiracism training;

(vi) Undoing institutional racism;

(vii) Criminal procedure, to include criminal discovery rules and the prosecution's obligations under CrR 4.7 and *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny; and

(viii) Other relevant trainings as needed.

NEW SECTION. **Sec.**  APPOINTMENT OF ASSISTANT ATTORNEYS GENERAL—SPECIAL AND TEMPORARY. The independent counsel may appoint one or more assistant attorneys general and special assistant attorneys general who shall have the same powers as prosecuting attorneys to perform investigations and prosecutions conducted by the office of independent prosecutions. Each appointment shall be in writing, signed by the independent counsel.

NEW SECTION. **Sec.**  EMPLOYMENT OF LEGAL INTERNS. Notwithstanding any other provision of this chapter, nothing in this chapter shall prevent law students from working as volunteer or paid legal interns or law clerks for the office of independent prosecutions, or as otherwise authorized by statute or court rule.

NEW SECTION. **Sec.**  PUBLIC RECORDS ACT. (1)(a) The case records of the office of independent prosecutions, and all communications pertaining to same, are confidential and exempt from disclosure under chapter 42.56 RCW until such time as:

(i) A decision has been made to decline criminal charges in a particular case;

(ii) A charged case is dismissed;

(iii) A judge or jury returns a verdict of "not guilty"; or

(iv) Entry of judgment and sentence following a guilty plea or verdict of guilty.

(b) After the occurrence of any of the events in (a) of this subsection, the case records and related communications of the office are subject to the provisions of chapter 42.56 RCW.

(2) If the independent counsel determines that a criminal charge is not warranted in a case, the independent counsel shall issue a public report that includes the results of the investigation and an explanation of the reasons for the decision, and post the report on the office of independent prosecutions' website.

NEW SECTION. **Sec.**  LIABILITY. No action or other proceeding may be instituted against the independent counsel or the independent counsel's employees or contractors, or a person exercising powers or performing duties at the direction of the office of independent prosecutions, for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions set forth in RCW 43.102.010 apply to sections 4 through 14 of this act.

**Sec.**  RCW 36.27.020 and 2016 c 173 s 7 are each amended to read as follows:

The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving it his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) ((~~Prosecute~~)) Subject to subsection (13) of this section, prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law;

(12) Participate in the statewide sexual assault kit tracking system established in RCW 43.43.545 for the purpose of tracking the status of all sexual assault kits connected to criminal investigations and prosecutions within the county. Prosecuting attorneys shall begin full participation in the system according to the implementation schedule established by the Washington state patrol;

(13)(a) In any case involving potential prosecution of a crime involving use of deadly force by an involved officer, the prosecuting attorney shall determine if recusal is necessary under the ethical rules applicable to all lawyers or to preserve public confidence. In making this determination, it is improper for the prosecuting attorney to make a determination as to whether criminal charges shall be filed or prosecuted if any of the following exist:

(i) The prosecuting attorney has a relationship with the involved officer or the involved officer's employing agency, either personally or professionally, such that the prosecuting attorney's decision or pursuit of charges may be affected;

(ii) The prosecuting attorney has a duty to represent the involved officer's employing agency in any civil action related to or arising from the incident under consideration or criminally charged and the prosecuting attorney's decision or pursuit of charges arising from the police officer's use of deadly force may be affected by the duty to defend; or

(iii) There is a risk that the prosecuting attorney's ability to consider, recommend, or carry out an appropriate course of action will be limited as a result of the prosecuting attorney's other responsibilities or interests.

(b) If the prosecuting attorney finds recusal is necessary under the ethics rules or to preserve public confidence, the prosecuting attorney must transfer the case to the office of independent prosecutions in the attorney general's office within 30 days of receiving the case from the office of independent investigations under chapter 43.102 RCW.

(c) For the purposes of this subsection, "deadly force" and "involved officer" have the meanings provided in RCW 43.102.010.

**Sec.**  RCW 36.27.030 and 2009 c 549 s 4046 are each amended to read as follows:

((~~When~~)) (1) Except as provided in subsection (3) of this section, when from illness or other cause the prosecuting attorney is temporarily unable to perform his or her duties, the court or judge may appoint some qualified person to discharge the duties of such officer in court until the disability is removed.

((~~When~~)) (2) Except as provided in subsection (3) of this section, when any prosecuting attorney fails, from sickness or other cause, to attend a session of the superior court of his or her county, or is unable to perform his or her duties at such session, the court or judge may appoint some qualified person to discharge the duties of such session, and the appointee shall receive a compensation to be fixed by the court, to be deducted from the stated salary of the prosecuting attorney, not exceeding, however, one-fourth of the quarterly salary of the prosecuting attorney: PROVIDED, That in counties wherein there is no person qualified for the position of prosecuting attorney, or wherein no qualified person will consent to perform the duties of that office, the judge of the superior court shall appoint some suitable person, a duly admitted and practicing attorney-at-law and resident of the state to perform the duties of prosecuting attorney for such county, and he or she shall receive such reasonable compensation for his or her services as shall be fixed and ordered by the court, to be paid by the county for which the services are performed.

(3) In any case involving potential prosecution of a crime involving use of deadly force by an involved officer, where the prosecuting attorney has a conflict of interest and has not transferred the case to the office of independent prosecutions of the office of the attorney general, the court shall order the office of independent prosecutions of the office of the attorney general to discharge the responsibilities of the prosecuting attorney. For the purposes of this subsection, "deadly force" and "involved officer" have the meanings provided in RCW 43.102.010.

NEW SECTION. **Sec.**  A new section is added to chapter 36.27 RCW to read as follows:

If the prosecuting attorney makes a determination not to file criminal charges in a case involving use of deadly force by an involved officer, the prosecuting attorney must refer the case and all investigative materials concerning the case to the office of independent prosecutions in the office of the attorney general within 30 days of the decision to not file criminal charges. For the purposes of this section, "deadly force" and "involved officer" have the meanings provided in RCW 43.102.010.

**Sec.**  RCW 43.102.080 and 2021 c 318 s 308 are each amended to read as follows:

(1) The office has jurisdiction over, and is authorized to conduct investigations of, all cases and incidents as established within this section.

(2)(a) The director may cause an investigation to be conducted into any incident:

(i) Of a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; or

(ii) Involving prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation.

(b) This section applies only if, at the time of the incident:

(i) The involved officer was on duty; or

(ii) The involved officer was off duty but:

(A) Engaged in the investigation, pursuit, detention, or arrest of a person or otherwise exercising the powers of a general authority or limited authority Washington peace officer; or

(B) The incident involved equipment or other property issued to the official in relation to his or her duties.

(3) The director shall determine prioritization of investigations based on resources and other criteria which may be established in consultation with the advisory board. The director shall ensure that incidents occurring after the date the office begins investigating cases receive the highest priority for investigation.

(4) The investigation should include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or influenced the outcome of the incident that are directly related to the incident under investigation.

(5) Upon receiving notification required in RCW 43.102.120 of an incident under the jurisdiction of the office, the director:

(a) May cause the incident to be investigated in accordance with this chapter;

(b) May determine investigation is not appropriate for reasons including, but not limited to, the case not being in the category of prioritized cases; or

(c) If the director determines that the incident is not within the office's jurisdiction to investigate, the director shall decline to investigate, and shall give notice of the fact to the involved agency.

(6) If the director determines the case is to be investigated the director will communicate the decision to investigate to the involved agency and will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident or a case that is under the jurisdiction of the office. The director will implement the process developed pursuant to RCW 43.102.050 and conduct the appropriate investigation in accordance with the process.

(7) In conducting the investigation the office shall have access to reports and information necessary or related to the investigation in the custody and control of the involved agency and any law enforcement agency responding to the scene of the incident including, but not limited to, voice or video recordings, body camera recordings, and officer notes, as well as disciplinary and administrative records except those that might be statements conducted as part of an administrative investigation related to the incident.

(8) The investigation shall be concluded within 120 days of acceptance of the case for investigation. If the office is not able to complete the investigation within 120 days, the director shall report to the advisory board the reasons for the delay.

(9)(a) Upon the completion of an investigation authorized under this chapter, the office shall send its completed investigation and referral to both the county prosecuting attorney of the jurisdiction in which the offense occurred and the office of independent prosecutions in accordance with protocols established under RCW 43.102.050(2)(c)(viii), and include any information, if known, regarding the presence of a conflict of interest.

(b) All employees of the office of independent investigations, and all members of an independent investigations team who participate in the investigation of a use of deadly force by an involved officer as defined in RCW 43.102.010, are encouraged to cooperate fully with requests for interviews or additional information from the office of independent prosecutions.

(c) The office of independent investigations or a member of the independent investigations team that investigated an incident of use of deadly force that is the subject of a review for criminal charges are encouraged to, at the request of the office of independent prosecutions, transport evidence to and from any laboratory, medical examiner's office, or expert witness as directed by the office of independent prosecutions.

(d) The office of independent investigations or a member of the independent investigations team that investigated an incident of use of deadly force that is the subject of criminal trial proceedings are encouraged to, at the request of the office of independent prosecutions, transport evidence to court as directed by the office of independent prosecutions.

**Sec.**  RCW 41.80.400 and 2019 c 145 s 2 are each amended to read as follows:

(1) In addition to the agencies defined in RCW 41.80.005 and subject to the provisions of this section, this chapter applies to assistant attorneys general.

(2)(a) Assistant attorneys general who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain.

(b) Division chiefs, deputy attorneys general, the solicitor general, the independent counsel, assistant attorneys general in the labor and personnel division, special assistant attorneys general, confidential employees as defined in RCW 41.80.005, and any assistant or deputy attorney general who reports directly to the attorney general are excluded from this section and do not have the right to collectively bargain.

(3) The only unit appropriate for the purpose of collective bargaining under this chapter is a statewide unit of all assistant attorneys general not otherwise excluded from bargaining.

(4) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for assistant attorneys general.

**Sec.**  RCW 10.114.011 and 2021 c 318 s 401 are each amended to read as follows:

Except as required by federal consent decree, federal settlement agreement, or federal court order, where the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force and conducted in accordance with chapter 43.102 RCW. All investigatory reports must be handled in accordance with RCW 43.102.080. Any rules adopted by the criminal justice training commission must be consistent with chapter 43.102 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec.**  Sections 4 through 15 of this act are each added to chapter 43.10 RCW.

NEW SECTION. **Sec.**  Sections 2, 3, 16, 17, 18, and 19 of this act take effect July 1, 2024."

**2SHB 1579** - S COMM AMD

By Committee on Law & Justice

**NOT CONSIDERED 05/17/2023**

On page 1, line 3 of the title, after "force;" strike the remainder of the title and insert "amending RCW 43.10.230, 43.10.232, 43.10.234, 36.27.020, 36.27.030, 43.102.080, 41.80.400, and 10.114.011; adding a new section to chapter 36.27 RCW; adding new sections to chapter 43.10 RCW; creating a new section; and providing an effective date."

EFFECT: Requires the Attorney General to overcome a presumption of an inherent conflict of interest in any investigation of employees of state agencies.