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**SECOND SUBSTITUTE HOUSE BILL 1445**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Hansen, Simmons, Reed, Thai, Pollet, and Macri)

AN ACT Relating to strengthening and clarifying the authority of the attorney general to address law enforcement and local corrections agency misconduct through investigations and legal actions; adding new sections to chapter 43.10 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The state of Washington and its subdivisions undertake to protect the safety of individuals and to preserve public peace by employing peace officers who are entrusted with the power to arrest, detain, and use force against individuals suspected of violating criminal statutes, and local corrections officers who are responsible for the custody, safety, and security of incarcerated individuals. The legislature recognizes that abuses of this power, such as officer misconduct in using excessive force; unlawful stops, searches, or arrests; discriminatory practices that violate the rights of people in Washington; and the provision of substandard conditions of confinement and inadequate medical care to detainees and prisoners, harm public safety, hinder effectiveness, and decrease trust in law enforcement and corrections agencies. It is the intent of the legislature to clarify existing authority and authorize the attorney general's office to investigate, and if necessary, bring suit against law enforcement agencies and local corrections agencies to compel needed reforms where there are violations of constitutional and civil rights, in order to promote effective and constitutional policing, detention, and incarceration practices across the state, provide significant, systemic relief and transparency, increase community confidence in law enforcement and corrections agencies, and improve officer and agency accountability with respect to policing, detention, and incarceration practices. This state level authority is not intended to address isolated acts of misconduct or to hold individual officers liable for misconduct. This state authority is necessary to promote a consistent level of quality policing for all Washingtonians. This act does not preempt, limit, diminish, or otherwise affect any other cause of action or appropriate remedy authorized by state or federal law.

NEW SECTION. **Sec.**  The definitions in this section apply throughout sections 1 and 3 of this act unless the context clearly requires otherwise.

(1) "Law enforcement agency" includes any "general authority Washington law enforcement agency" and any "limited authority Washington law enforcement agency" of any county, city, or town as those terms are defined in RCW 10.93.020 and any political subdivision of the state.

(2) "Local corrections agency" means any county, city, or local agency providing or otherwise responsible for the custody, safety, and security of adults or juveniles incarcerated in correctional, jail, or detention facilities.

(3) "Local corrections officer" means any employee, whether part-time or full-time, of a county, city, or local jail, correctional, or detention facility who is responsible for the custody, safety, and security of adult or juvenile persons confined in the facility.

(4) "Peace officer" includes any "general authority Washington peace officer," "limited authority Washington peace officer," and "specially commissioned Washington peace officer" of any county, city, or town as those terms are defined in RCW 10.93.020.

NEW SECTION. **Sec.**  (1) As a matter of state interest and public concern under RCW 43.10.030(1), the attorney general may investigate and bring an action against a law enforcement agency or local corrections agency, as defined in section 2 of this act, for a violation of the Washington state Constitution or state law, including where insufficient accountability systems, training, and policies at the agency lead to such violations. In the discretion of the court, the attorney general may recover the costs of the action including reasonable attorneys' fees if the attorney general prevails in the action.

(2) The attorney general's power under this section includes the authority to:

(a) Investigate violations under subsection (1) of this section on its own initiative or in response to investigations or reports from independent oversight bodies;

(b) Issue written civil investigative demands for documents and oral testimony, and answers to written interrogatories; and

(c) Institute civil actions in the courts for injunctive or declaratory relief, damages, costs, and reasonable attorneys' fees.

(3) Prior to the initiation of any formal investigative steps, the attorney general shall confer with the United States department of justice to ensure that law enforcement resources are being used efficiently and that there are no conflicts with any independent investigations by the United States department of justice. In any investigation or action brought under this section against a law enforcement agency or local corrections agency that is subject to an investigation by the United States department of justice, the attorney general shall not seek any relief or remedies that are in conflict with the federal action.

(4) If an investigation is initiated, the attorney general shall confer with the office of independent investigations to ensure that any investigation under this section will not interfere with or impede an ongoing investigation being conducted by the office of independent investigations.

NEW SECTION. **Sec.**  Sections 2 and 3 of this act must be liberally construed so that their beneficial and remedial purposes may be served. If any provision of this act conflicts with any other statute, ordinance, rule, or regulation of any public employer, the provisions of this chapter control.

NEW SECTION. **Sec.**  By September 1, 2024, the attorney general shall develop and publish model policies for law enforcement agency accountability systems, specifying model practices for receiving complaints of serious misconduct, conducting investigations of serious misconduct, imposing discipline for serious misconduct, and addressing disciplinary appeals. The model policies should promote transparent and effective accountability systems that: Mete out fair, impartial, and swift discipline commensurate to wrongdoing; reduce officer misconduct; reduce barriers to accountability; and uphold the civil and constitutional rights of members of the public. The model policies shall be consistent with standards adopted in other published model guidance drafted by the office of the attorney general at the specific request of the Washington state legislature. In developing these policies, the attorney general shall consult with the criminal justice training commission, the office of independent investigations, law enforcement agencies, police unions, independent oversight bodies, city attorneys and county prosecutors, people impacted by police misconduct, experts, and police accountability advocates.

NEW SECTION. **Sec.**  Sections 2 through 5 of this act are each added to chapter 43.10 RCW.

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.

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