
SECOND SUBSTITUTE HOUSE BILL 1445

State of Washington

68th Legislature

2023 Regular Session

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

READ FIRST TIME 02/24/23.

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

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

6 NEW SECTION. **Sec. 1.** The state of Washington and its
7 subdivisions undertake to protect the safety of individuals and to
8 preserve public peace by employing peace officers who are entrusted
9 with the power to arrest, detain, and use force against individuals
10 suspected of violating criminal statutes, and local corrections
11 officers who are responsible for the custody, safety, and security of
12 incarcerated individuals. The legislature recognizes that abuses of
13 this power, such as officer misconduct in using excessive force;
14 unlawful stops, searches, or arrests; discriminatory practices that
15 violate the rights of people in Washington; and the provision of
16 substandard conditions of confinement and inadequate medical care to
17 detainees and prisoners, harm public safety, hinder effectiveness,
18 and decrease trust in law enforcement and corrections agencies. It is
19 the intent of the legislature to clarify existing authority and
20 authorize the attorney general's office to investigate, and if
21 necessary, bring suit against law enforcement agencies and local

1 corrections agencies to compel needed reforms where there are
2 violations of constitutional and civil rights, in order to promote
3 effective and constitutional policing, detention, and incarceration
4 practices across the state, provide significant, systemic relief and
5 transparency, increase community confidence in law enforcement and
6 corrections agencies, and improve officer and agency accountability
7 with respect to policing, detention, and incarceration practices.
8 This state level authority is not intended to address isolated acts
9 of misconduct or to hold individual officers liable for misconduct.
10 This state authority is necessary to promote a consistent level of
11 quality policing for all Washingtonians. This act does not preempt,
12 limit, diminish, or otherwise affect any other cause of action or
13 appropriate remedy authorized by state or federal law.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout sections 1 and 3 of this act unless the context clearly
16 requires otherwise.

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

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

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

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

34 NEW SECTION. **Sec. 3.** (1) As a matter of state interest and
35 public concern under RCW 43.10.030(1), the attorney general may
36 investigate and bring an action against a law enforcement agency or
37 local corrections agency, as defined in section 2 of this act, for a
38 violation of the Washington state Constitution or state law,

1 including where insufficient accountability systems, training, and
2 policies at the agency lead to such violations. In the discretion of
3 the court, the attorney general may recover the costs of the action
4 including reasonable attorneys' fees if the attorney general prevails
5 in the action.

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

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

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

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

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

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

30 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act must be
31 liberally construed so that their beneficial and remedial purposes
32 may be served. If any provision of this act conflicts with any other
33 statute, ordinance, rule, or regulation of any public employer, the
34 provisions of this chapter control.

35 NEW SECTION. **Sec. 5.** By September 1, 2024, the attorney general
36 shall develop and publish model policies for law enforcement agency
37 accountability systems, specifying model practices for receiving
38 complaints of serious misconduct, conducting investigations of

1 serious misconduct, imposing discipline for serious misconduct, and
2 addressing disciplinary appeals. The model policies should promote
3 transparent and effective accountability systems that: Mete out fair,
4 impartial, and swift discipline commensurate to wrongdoing; reduce
5 officer misconduct; reduce barriers to accountability; and uphold the
6 civil and constitutional rights of members of the public. The model
7 policies shall be consistent with standards adopted in other
8 published model guidance drafted by the office of the attorney
9 general at the specific request of the Washington state legislature.
10 In developing these policies, the attorney general shall consult with
11 the criminal justice training commission, the office of independent
12 investigations, law enforcement agencies, police unions, independent
13 oversight bodies, city attorneys and county prosecutors, people
14 impacted by police misconduct, experts, and police accountability
15 advocates.

16 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each
17 added to chapter 43.10 RCW.

18 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2023, in the omnibus appropriations act, this
21 act is null and void.

--- END ---