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**HOUSE BILL 2473**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Farivar, Fosse, Walen, Thai, Macri, Peterson, Pollet, Kloba, Nance, Ramel, and Davis

Read first time 01/24/24. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to transparency, public safety, and independent  
2 oversight of the city, county, and regional jail system in Washington  
3 state; amending RCW 70.48.510; and adding a new chapter to Title 43  
4 RCW.

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

6 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. The legislature  
7 finds that independent oversight of correctional systems encourages  
8 public trust, supports safe and humane conditions for correctional  
9 employees and incarcerated people, enhances public safety, and  
10 promotes reform towards more rehabilitative and therapeutic  
11 correctional systems.

12 The legislature established the joint legislative task force on  
13 jail standards to study and make recommendations regarding jail  
14 conditions and oversight. This act reflects many of the findings and  
15 recommendations of that task force, whose members represented the  
16 senate and house of representatives, prosecutors, defense attorneys,  
17 law enforcement, courts, jail administrators, counties and cities,  
18 medical and mental health services providers, persons with lived  
19 experience, and others interested in the operation of jails.

20 The legislature further finds that the jail system has a  
21 significant impact on the people of Washington. In 2022, more than

1 130,000 people were booked into Washington jails and that, on any  
2 given day in 2022, more than 8,000 people were detained in Washington  
3 jails.

4 Until 1987, Washington jails were overseen by the Washington  
5 corrections standards board. This body was eliminated over the  
6 opposition of stakeholders including jail administrators, advocates,  
7 and the department of corrections.

8 The legislature further finds that an increasing number of states  
9 are establishing independent oversight of their correctional systems.  
10 At least 29 states have established independent correctional  
11 oversight to promote transparency and improve their correctional  
12 systems. Washington has already established independent oversight of  
13 juvenile detention facilities and state prisons.

14 The legislature declares that oversight and transparency are  
15 integral components of Washington state government, and data  
16 collection is one essential tool to allow the public, correctional  
17 administrators and staff, and policymakers to analyze existing  
18 practices. Independent oversight and data-driven decision-making help  
19 identify and solve problems and make the government accountable to  
20 the people of Washington state.

21 Therefore, the legislature resolves to establish independent  
22 oversight of Washington's jail system to ensure transparency, support  
23 safe and humane conditions for jail employees and incarcerated  
24 individuals, promote reform towards a more rehabilitative and  
25 therapeutic jail system, reduce jails' exposure to litigation, and  
26 promote cost savings.

27 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
28 section apply throughout this chapter unless the context clearly  
29 requires otherwise.

30 (1) "Board" means the jail oversight board.

31 (2) "Director" means the director of the jail oversight board.

32 (3) "Health care information" has the same meaning as in RCW  
33 70.02.010.

34 (4) "Health care provider" has the same meaning as in RCW  
35 70.02.010.

36 (5) "Incarcerated individual" means a person committed to the  
37 custody of a jail, including but not limited to persons residing in a  
38 jail and persons released from such facility on furlough, work  
39 release, or community custody, and persons received from another

1 state, state agency, county, federally recognized tribe, federal  
2 jurisdiction, or other entity or jurisdiction.

3 (6) "Jail" means any holding, detention, special detention, or  
4 correctional facility as defined in RCW 70.48.020.

5 (7) "Jail administrator" means a city or county department of  
6 corrections or chief law enforcement officer responsible for the  
7 operation of a jail pursuant to RCW 70.48.090.

8 NEW SECTION. **Sec. 3.** CREATION OF BOARD—PURPOSE. Subject to the  
9 availability of funds appropriated for this specific purpose, there  
10 is hereby created the jail oversight board within the office of the  
11 governor to ensure transparency and independent oversight of  
12 Washington's jail system, support safe and humane conditions for jail  
13 employees and incarcerated individuals, and promote reform towards a  
14 more rehabilitative and therapeutic jail system.

15 NEW SECTION. **Sec. 4.** APPOINTMENT AND REMOVAL OF BOARD MEMBERS.

16 (1) The board shall be composed of five members as follows:

17 (a) One person who is a current or former jail administrator;

18 (b) One person who is a current or former medical provider  
19 familiar with the needs of patients who have experienced  
20 incarceration and has not been employed by a state or county  
21 correctional or law enforcement agency in the last 10 years;

22 (c) One person who is a current or former behavioral health  
23 service provider familiar with the needs of patients who have  
24 experienced incarceration and has not been employed by a state or  
25 county correctional or law enforcement agency in the last 10 years;

26 (d) One person with lived experience being incarcerated in a  
27 Washington jail; and

28 (e) One person who is a licensed attorney with a background in  
29 investigating or advocating matters related to enhancing Washington  
30 jail practices or conditions and has not been employed by a state or  
31 county correctional or law enforcement agency in the last 10 years.

32 (2) Members shall be appointed by the governor. One of the  
33 initial members of the board shall be appointed for a term of one  
34 year, one for a term of two years, one for a term of three years, one  
35 for a term of four years, and one for a term of five years.  
36 Successors to the initial members shall be appointed for terms of  
37 five years each, except that any individual chosen to fill a vacancy

1 shall be appointed only for the unexpired term of the member whom the  
2 individual succeeds.

3 (3) Members shall be eligible for reappointment.

4 (4) The board shall elect a chair and vice chair from among its  
5 members.

6 (5) A vacancy on the board shall be filled by similar appointment  
7 for the remainder of the unexpired term, with the remaining members  
8 exercising all powers of the board during the period of vacancy.

9 (6) Any member of the board may only be removed by the governor  
10 for neglect of duty, misconduct, or the inability to perform duties,  
11 after being given a written statement of the charges and an  
12 opportunity to be heard at a public hearing thereon.

13 NEW SECTION. **Sec. 5.** ADVISORY COUNCILS. The board has the power  
14 to create such advisory councils as, in its judgment, will advise and  
15 support the work of the board. Such a council or councils may include  
16 currently and formerly incarcerated individuals and their families,  
17 jail administrators of urban and rural jails from east and west of  
18 the crest of the Cascade mountains, jail employees, individuals from  
19 a historically underrepresented community or communities,  
20 representatives from law enforcement, advocates for a more  
21 rehabilitative and therapeutic jail system, victims' advocates,  
22 prosecutors, defense attorneys, judicial officers, and others  
23 involved with or interested in the operation of local jails.

24 NEW SECTION. **Sec. 6.** COMPENSATION AND REIMBURSEMENT FOR BOARD  
25 AND ADVISORY COUNCILMEMBERS. (1) Members of the board shall be  
26 compensated in accordance with RCW 43.03.240 and shall be reimbursed  
27 for their travel expenses incurred in the performance of their duties  
28 in accordance with RCW 43.03.050 and 43.03.060.

29 (2) Members of any advisory council appointed by the board shall  
30 be compensated in accordance with RCW 43.03.220 and shall be  
31 reimbursed for their travel expenses incurred in the performance of  
32 their duties in accordance with RCW 43.03.050 and 43.03.060.

33 NEW SECTION. **Sec. 7.** BOARD DIRECTOR. (1) Subject to the  
34 availability of funds appropriated for this specific purpose, the  
35 governor shall appoint a full-time director from a list of no fewer  
36 than three nominees submitted by the board unless the governor  
37 declines to select any of the candidates provided, in which case the

1 governor may request additional candidates from the board or suggest  
2 candidates to the board for consideration.

3 (2) The director shall be a person of recognized judgment,  
4 integrity, and independence.

5 (3) The director shall hold office for a term of five years and  
6 shall continue to hold office until reappointed or until the  
7 appointment of their successor. The director may only be removed by  
8 the governor for neglect of duty, misconduct, or the inability to  
9 perform duties. Any vacancy must be filled by similar appointment for  
10 the remainder of the unexpired term.

11 (4) The director reports directly to the board.

12 (5) Subject to the appropriation of funds by the legislature, the  
13 director shall employ staff and make other expenditures necessary to  
14 complete the purposes of this chapter.

15 NEW SECTION. **Sec. 8.** POWERS AND DUTIES OF THE BOARD. (1) The  
16 board shall meet not less than once each quarter to make  
17 recommendations, receive reports from the director, and transact  
18 business properly brought before the board.

19 (2) The board or its staff shall:

20 (a) Establish priorities for use of the limited resources  
21 available to the board;

22 (b) Maintain a website, mailing address, toll-free telephone  
23 number, and a collect telephone number for the receipt of complaints  
24 and inquiries and the sharing of information;

25 (c) Administer a statewide uniform jail reporting system for the  
26 collection and reporting of information relating to jails;

27 (d) Maintain a database that is publicly searchable, machine  
28 readable, exportable, and accompanied by a complete plain language  
29 dictionary of information maintained in the statewide uniform jail  
30 reporting system;

31 (e) Monitor each jail in Washington state at least once every  
32 three years to monitor and report on jail compliance with applicable  
33 state and federal legal and constitutional requirements, rules,  
34 regulations, policies, and best practices related to the health,  
35 safety, welfare, and reentry of incarcerated individuals;

36 (f) Write and publish reports within two months of such  
37 monitoring visits that shall include nonidentifiable case studies or  
38 other information necessary to support any findings and any written  
39 response from a jail administrator or their designee to such reports;

1 (g) Serve as a member of all unexpected fatality review teams  
2 convened under RCW 70.48.510;

3 (h) Investigate and report on specific and systemic issues  
4 relating to jails including issues and trends identified through  
5 monitoring, complaints, fatality reviews, and the statewide uniform  
6 jail reporting system;

7 (i) Provide technical assistance and consultation including  
8 informational support to jail administrators or their designees;

9 (j) Share information with jail administrators or their designees  
10 regarding individual complaints or concerns within the discretion of  
11 the director or their designee and with the consent of the  
12 complainant;

13 (k) Provide public comment and testimony, write and issue reports  
14 and recommendations, share information, and make recommendations for  
15 statutory changes as appropriate to effectuate the purposes of this  
16 chapter;

17 (l) Adopt rules, policies, and procedures necessary to implement  
18 this chapter; and

19 (m) Submit an annual report to the governor and the legislature,  
20 in compliance with RCW 43.01.036, that includes a statement of  
21 actions taken by the board for the preceding year, and  
22 recommendations for any statutory changes that the board deems  
23 necessary or desirable to accomplish the purposes of this chapter.

24 (3) The board is not required to investigate complaints or notify  
25 complainants of decisions or actions taken in response to a  
26 complaint. This chapter does not require incarcerated individuals to  
27 file a complaint with the board in order to exhaust available  
28 remedies for the purpose of the prison litigation reform act of 1995,  
29 P.L. 104-134.

30 NEW SECTION. **Sec. 9.** STATEWIDE UNIFORM JAIL REPORTING SYSTEM.

31 (1) The board shall develop and administer a statewide uniform jail  
32 reporting system for the reporting and dissemination of jail data.  
33 Such data may include but is not limited to information relating to:  
34 Medical, mental health, or dental care; operational policies;  
35 population trends and capacity; commissary, visitation, or  
36 telecommunications; discipline; grievance procedures; use of force  
37 and assault incidents; deaths in custody; self-harm and suicidality;  
38 staffing, training, or supervision; programming and reentry services;

1 substance use disorder services; restrictive housing; and incidents  
2 of sexual assault and harassment.

3 (2) The board shall consult with interested stakeholders  
4 including jail administrators to develop the uniform jail reporting  
5 system.

6 (3) The board may, consistent with its general authority and this  
7 chapter, provide assistance to jail administrators to develop new  
8 sources of data and to compile and effectively report data.

9 (4) The board may collaborate, consult, or contract with outside  
10 entities in implementing the uniform jail reporting system.

11 NEW SECTION. **Sec. 10.** ACCESS TO FACILITIES, INCARCERATED  
12 INDIVIDUALS, AND INFORMATION. (1) The director and the director's  
13 designees shall have:

14 (a) Reasonable access to all areas of jails accessible to or used  
15 by incarcerated individuals. Access by such individuals may be  
16 subject to reasonable security and background investigation  
17 requirements of the jail, provided that such access shall not be  
18 unreasonably withheld. Denial of access to such individuals with  
19 lived experience, including conviction or incarceration histories,  
20 who do not present active security concerns, shall be deemed  
21 unreasonable. Further, any initial background investigation of an  
22 individual under this section must be completed within 48 hours, and  
23 any subsequent investigation of the same individual must be performed  
24 promptly and shall not result in a delay of more than two hours;

25 (b) Reasonable opportunity to survey or interview privately and  
26 confidentially any incarcerated individual, jail employee, or other  
27 persons by mail, telephone, and in person;

28 (c) The ability to make audio and visual recordings of areas of  
29 jails accessible to or used by incarcerated individuals, provided  
30 that such visual recordings shall not depict the location or angles  
31 of security cameras; and

32 (d) The right to access, inspect, and copy any information,  
33 records, or documents in the possession or control of jail  
34 administrators, their agents, or a state or local government agency  
35 that the board considers necessary to carry out its purpose or to  
36 support its recommendations.

37 (2) Following a written demand from the director or the  
38 director's designees for access to information, records, or  
39 documents, the entity from whom information is requested must provide

1 the information not later than 20 business days after the written  
2 demand. Where information pertains to a death, threats of bodily harm  
3 including, but not limited to, sexual or physical assaults, or the  
4 denial of necessary medical treatment, the information shall be  
5 provided within five days.

6 (3) A jail administrator or their designee shall provide a  
7 written response to a monitoring report issued by the board within  
8 one month of receiving the report.

9 (4) A jail administrator or their designee shall provide  
10 accurate, complete, and timely information and data for the uniform  
11 jail reporting system.

12 NEW SECTION. **Sec. 11.** INFORMATION PROTECTION AND DISCLOSURE.

13 (1) The board is a "health oversight agency" so that the federal  
14 health insurance portability and accountability act and chapter 70.02  
15 RCW do not preclude jails, health care providers, or others from  
16 providing the information required by this section when requested by  
17 the board and, pursuant to these laws, jails, health care providers,  
18 and others are not required to seek or obtain consent from  
19 incarcerated individuals prior to providing the information required  
20 by this section in accordance with the requirements of this section.

21 (2) The information required by this section, when provided by a  
22 jail, health care provider, or other entity, becomes property of the  
23 board and is subject to all state and federal laws governing the  
24 confidentiality and disclosure of the files, records, and information  
25 maintained by the board. Information in the possession of the board  
26 shall be protected or disclosed according to state and federal law to  
27 the same extent as is required of the entity from whom the files,  
28 records, or information was received, including jails and providers  
29 of medical, mental health, and behavioral health services except as  
30 provided in this section.

31 (3) The board shall maintain the confidentiality of all matters  
32 under investigation, complaints, and the identities of complainants,  
33 informants, or witnesses except so far as disclosures may be  
34 determined necessary by the director or their designees to enable the  
35 board to carry out its duties or to support its recommendations. Such  
36 information shall be exempt from public disclosure under chapter  
37 42.56 RCW.

38 (4) Neither the board or an employee of the board may be  
39 compelled, in any judicial or administrative proceeding, to testify



1 or to produce evidence regarding the exercise of the official duties  
2 of the board or its employees. All related memoranda, work product,  
3 notes, and case files of the board are confidential, are not subject  
4 to discovery, judicial or administrative subpoena, or other method of  
5 legal compulsion, and are not admissible in evidence in a judicial or  
6 administrative proceeding.

7 (5) Nothing in this section shall prevent the board from  
8 publishing a report or database which maintains the confidentiality  
9 of the identities of incarcerated individuals.

10 (6) Nothing in this section shall prevent the board from  
11 reporting the results of an investigation which maintains the  
12 confidentiality of the identities of incarcerated individuals to  
13 responsible investigative or enforcement agencies should an  
14 investigation reveal information concerning a jail, its staff, or  
15 agents warranting possible sanctions or corrective action. Such  
16 information may be reported to agencies responsible for facility  
17 licensing or accreditation, employee discipline, employee licensing  
18 or certification, law enforcement, or criminal prosecution.

19 NEW SECTION. **Sec. 12.** CIVIL IMMUNITY—RETALIATORY ACTIONS. (1) A  
20 civil action may not be brought against any employee of the board for  
21 good faith performance of responsibilities under this chapter.

22 (2) No discriminatory, disciplinary, or retaliatory action may be  
23 taken against a jail employee, subcontractor, volunteer, incarcerated  
24 individual, or family member or representative of an incarcerated  
25 individual for any communication made, or information given or  
26 disclosed, to aid the office in carrying out its responsibilities.

27 (3) Every individual, legal entity, and agency of federal, state,  
28 or local government is immune from civil liability, whether direct or  
29 derivative, for providing information to the board in good faith.

30 (4) This section is not intended to infringe on the rights of an  
31 employer to supervise, discipline, or terminate an employee for other  
32 reasons.

33 **Sec. 13.** RCW 70.48.510 and 2021 c 139 s 3 are each amended to  
34 read as follows:

35 (1)(a) A city or county department of corrections or chief law  
36 enforcement officer responsible for the operation of a jail shall  
37 conduct an unexpected fatality review in any case in which the death  
38 of an individual confined in the jail is unexpected.

1 (b) The city or county department of corrections or chief law  
2 enforcement officer shall convene an unexpected fatality review team  
3 and determine the membership of the review team. The team shall  
4 comprise of the director of the jail oversight board or their  
5 designee in accordance with section 8 of this act and individuals  
6 with appropriate expertise including, but not limited to, individuals  
7 whose professional expertise is pertinent to the dynamics of the  
8 case. The city or county department of corrections or chief law  
9 enforcement officer shall ensure that the unexpected fatality review  
10 team is made up of individuals who had no previous involvement in the  
11 case.

12 (c) The primary purpose of the unexpected fatality review shall  
13 be the development of recommendations to the governing unit with  
14 primary responsibility for the operation of the jail and legislature  
15 regarding changes in practices or policies to prevent fatalities and  
16 strengthen safety and health protections for individuals in custody.

17 (d) Upon conclusion of an unexpected fatality review required  
18 pursuant to this section, the city or county department of  
19 corrections or chief law enforcement officer shall, within 120 days  
20 following the fatality, issue a report on the results of the review,  
21 unless an extension has been granted by the chief executive or, if  
22 appropriate, the county legislative authority of the governing unit  
23 with primary responsibility for the operation of the jail. Reports  
24 must be distributed to the governing unit with primary responsibility  
25 for the operation of the jail and appropriate committees of the  
26 legislature, and the (~~department of health~~) jail oversight board  
27 shall create a public website where all unexpected fatality review  
28 reports required under this section must be posted and maintained. An  
29 unexpected fatality review report completed pursuant to this section  
30 is subject to public disclosure and must be posted on the  
31 (~~department of health~~) jail oversight board public website, except  
32 that confidential information may be redacted by the city or county  
33 department of corrections or chief law enforcement officer consistent  
34 with the requirements of applicable state and federal laws.

35 (e) The city or county department of corrections or chief law  
36 enforcement officer shall develop and implement procedures to carry  
37 out the requirements of this section.

38 (2) In any review of an unexpected fatality, the city or county  
39 department of corrections or chief law enforcement officer and the  
40 unexpected fatality review team shall have access to all records and

1 files regarding the person or otherwise relevant to the review that  
2 have been produced or retained by the agency.

3 (3) (a) An unexpected fatality review completed pursuant to this  
4 section is subject to discovery in a civil or administrative  
5 proceeding, but may not be admitted into evidence or otherwise used  
6 in a civil or administrative proceeding except pursuant to this  
7 section.

8 (b) An employee of a city or county department of corrections or  
9 law enforcement employee responsible for conducting an unexpected  
10 fatality review, or member of an unexpected fatality review team, may  
11 not be examined in a civil or administrative proceeding regarding:  
12 (i) The work of the unexpected fatality review team; (ii) the  
13 incident under review; (iii) his or her statements, deliberations,  
14 thoughts, analyses, or impressions relating to the work of the  
15 unexpected fatality review team or the incident under review; or (iv)  
16 the statements, deliberations, thoughts, analyses, or impressions of  
17 any other member of the unexpected fatality review team, or any  
18 person who provided information to the unexpected fatality review  
19 team relating to the work of the unexpected fatality review team or  
20 the incident under review.

21 (c) Documents prepared by or for an unexpected fatality review  
22 team are inadmissible and may not be used in a civil or  
23 administrative proceeding, except that any document that exists  
24 before its use or consideration in an unexpected fatality review, or  
25 that is created independently of such review, does not become  
26 inadmissible merely because it is reviewed or used by an unexpected  
27 fatality review team. A person is not unavailable as a witness merely  
28 because the person has been interviewed by, or has provided a  
29 statement for, an unexpected fatality review, but if the person is  
30 called as a witness, the person may not be examined regarding the  
31 person's interactions with the unexpected fatality review including,  
32 without limitation, whether the person was interviewed during such  
33 review, the questions that were asked during such review, and the  
34 answers that the person provided during such review. This section may  
35 not be construed as restricting the person from testifying fully in  
36 any proceeding regarding his or her knowledge of the incident under  
37 review.

38 (d) The restrictions set forth in this section do not apply in a  
39 licensing or disciplinary proceeding arising from an agency's effort  
40 to revoke or suspend the license of any licensed professional based

1 in whole or in part upon allegations of wrongdoing in connection with  
2 an unexpected fatality reviewed by an unexpected fatality review  
3 team.

4 (4) No provision of this section may be interpreted to require a  
5 jail to disclose any information in a report that would, as  
6 determined by the jail, reveal security information about the jail.

7 (5) For the purposes of this section:

8 (a) "City or county department of corrections" means a department  
9 of corrections created by a city or county to be in charge of the  
10 jail and all persons confined in the jail pursuant to RCW 70.48.090.

11 (b) "Chief law enforcement officer" means the chief law  
12 enforcement officer who is in charge of the jail and all persons  
13 confined in the jail if no department of corrections was created by a  
14 city or county pursuant to RCW 70.48.090.

15 (c) "Unexpected fatality review" means a review of any death that  
16 was not the result of a diagnosed or documented terminal illness or  
17 other debilitating or deteriorating illness or condition where the  
18 death was anticipated, and includes the death of any person under the  
19 care and custody of the city or county department of corrections or  
20 chief local enforcement officer, regardless of where the death  
21 actually occurred. A review must include an analysis of the root  
22 cause or causes of the unexpected fatality, and an associated  
23 corrective action plan for the jail to address identified root causes  
24 and recommendations made by the unexpected fatality review team under  
25 this section.

26 NEW SECTION. **Sec. 14.** Sections 1 through 12 of this act  
27 constitute a new chapter in Title 43 RCW.

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