
SUBSTITUTE SENATE BILL 5427

State of Washington

68th Legislature

2024 Regular Session

By Senate Ways & Means (originally sponsored by Senators Valdez, Billig, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Lovick, Saldaña, Salomon, Stanford, and C. Wilson)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to supporting people who have been targeted or
2 affected by hate crimes and bias incidents by establishing a
3 reporting hotline and tracking hate crimes and bias incidents;
4 amending RCW 42.56.240; adding a new section to chapter 43.10 RCW;
5 creating new sections; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10
8 RCW to read as follows:

9 (1) The attorney general's office shall oversee a hate crimes and
10 bias incidents hotline staffed during business hours and dedicated to
11 assisting people who have been targeted or affected by hate crimes
12 and bias incidents. The hotline shall:

13 (a) Provide appropriate information and referral to people who
14 have been targeted or affected by hate crimes and bias incidents that
15 is victim-centered, culturally competent, and trauma-informed;

16 (b) Be as accessible to as many residents of Washington as
17 possible, regardless of language proficiency, as much as is
18 practically possible within the limits of the resources appropriated
19 to operate the hotline.

20 (2) (a) The attorney general's office shall:

1 (i) To the extent possible, identify local service providers and
2 culturally specific services to refer people who have been targeted
3 or affected by hate crimes and bias incidents;

4 (ii) Coordinate and partner with other counties and any other
5 hotlines relevant to the hotline; and

6 (iii) Establish and appoint an advisory committee that will
7 include, among others, representatives from legal aid, at least five
8 community organizations working with historically underserved
9 communities across the state, local and culturally specific service
10 providers, state agencies, and any other entities the attorney
11 general's office deems relevant to the program. The advisory
12 committee shall provide advice and assistance regarding program
13 design, operation, outreach, service delivery objectives and
14 priorities, and funding.

15 (b) To ensure that the advisory committee has diverse and
16 inclusive representation of those affected by its work, advisory
17 committee members shall be compensated as provided in RCW 43.03.220.

18 (c) Advisory committee members are not entitled to be reimbursed
19 for travel expenses if they are elected officials or are
20 participating on behalf of an employer, governmental entity, or other
21 organization.

22 (d)(i) By July 1, 2025, the attorney general's office must
23 develop and implement a pilot hotline program that will assist
24 individuals targeted or affected by hate crimes in at least three
25 counties. One of those counties must be in eastern Washington.

26 (ii) By January 1, 2027, the attorney general's office must
27 implement the program statewide.

28 (e) No later than July 1, 2027, and at least annually thereafter,
29 the attorney general's office must provide information regarding hate
30 crimes and bias incidents reported to the hotline during the prior
31 calendar year to the governor, senate, and house of representatives,
32 and make the information publicly available on its website, excluding
33 the personal identifying information of any individual.

34 (f) Any information regarding hate crimes or bias incidents that
35 reveals the personal identifying information of any individual: (i)
36 Must not be included in any public report prepared in accordance with
37 this section; and (ii) is confidential and exempt from public
38 inspection, copying, or disclosure under chapter 42.56 RCW.

39 (3) Any law enforcement agency in this state that receives a
40 report of a hate crime or bias incident shall provide the phone

1 number and website address of the hotline to the targeted or affected
2 person.

3 (4) Whenever a hate crime is reported to the hotline by a member
4 of the public, the hotline shall inquire whether the person reported
5 the hate crime or bias incident to law enforcement. If the person
6 targeted or affected by the hate crime or bias incident consents to
7 sharing personal identifying information with the primary local law
8 enforcement agency of the jurisdiction in which the hate crime or
9 bias incident occurred, the hotline shall promptly share the targeted
10 or affected person's name, address, and contact information with the
11 primary local law enforcement agency. If the targeted or affected
12 person consents to share some but not all personal identifying
13 information, the hotline must share only the information the targeted
14 or affected person has consented to share.

15 (5) The definitions in this subsection apply throughout this
16 section unless the context clearly requires otherwise.

17 (a) "Bias incident" means a person's hostile expression of animus
18 toward another person, relating to the other person's actual or
19 perceived characteristics as listed in RCW 9A.36.080(1) or
20 49.60.030(1), of which criminal investigation or prosecution is
21 impossible or inappropriate. "Bias incident" does not include any
22 incident in which probable cause of the commission of a crime is
23 established by the investigating law enforcement officer, and does
24 not include expressions of opposition or support for the actions or
25 policies of a foreign or domestic government protected under free
26 speech.

27 (b) "Hate crime" means the commission, attempted commission, or
28 alleged commission of an offense described in RCW 9A.36.080.

29 (c) "Hate crimes and bias incidents hotline" or "hotline" means
30 the communications channel or channels overseen by the attorney
31 general's office pursuant to this section.

32 (d) "Law enforcement agency" means any general or limited
33 authority Washington law enforcement agency as those terms are
34 defined in RCW 10.93.020.

35 (e) "Law enforcement officer" means any general authority,
36 limited authority, or specially commissioned Washington peace officer
37 as those terms are defined in RCW 10.93.020.

38 (f) "Local service providers" means providers of services to
39 people who have been targeted or affected by hate crimes and bias
40 incidents, including without limitation crisis intervention,

1 advocacy, information and referral, and outreach and awareness, that
2 are located in the same geographic area that the hate crime or bias
3 incident occurred or where the targeted or affected person resides.

4 (g) "Personal identifying information" means any information that
5 can be used to distinguish or trace an individual's identity, such as
6 name, prior legal name, alias, mother's maiden name, date or place of
7 birth, residence, mailing address, telephone number, email address,
8 social security number, driver's license number, bank account number,
9 or other similar information.

10 (h) "Protected class" means a class of individuals who are
11 members of, or perceived as being members of, a group based on one or
12 more of the following shared characteristics: Race, color, religion,
13 ancestry, national origin, gender, sexual orientation, gender
14 expression or identity, or mental, physical, or sensory disability.

15 **Sec. 2.** RCW 42.56.240 and 2022 c 268 s 31 are each amended to
16 read as follows:

17 The following investigative, law enforcement, and crime victim
18 information is exempt from public inspection and copying under this
19 chapter:

20 (1) Specific intelligence information and specific investigative
21 records compiled by investigative, law enforcement, and penology
22 agencies, and state agencies vested with the responsibility to
23 discipline members of any profession, the nondisclosure of which is
24 essential to effective law enforcement or for the protection of any
25 person's right to privacy;

26 (2) Information revealing the identity of persons who are
27 witnesses to or victims of crime or who file complaints with
28 investigative, law enforcement, or penology agencies, other than the
29 commission, if disclosure would endanger any person's life, physical
30 safety, or property. If at the time a complaint is filed the
31 complainant, victim, or witness indicates a desire for disclosure or
32 nondisclosure, such desire shall govern. However, all complaints
33 filed with the commission about any elected official or candidate for
34 public office must be made in writing and signed by the complainant
35 under oath;

36 (3) Any records of investigative reports prepared by any state,
37 county, municipal, or other law enforcement agency pertaining to sex
38 offenses contained in chapter 9A.44 RCW or sexually violent offenses
39 as defined in RCW 71.09.020, which have been transferred to the

1 Washington association of sheriffs and police chiefs for permanent
2 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

3 (4) License applications under RCW 9.41.070, except that copies
4 of license applications or information on the applications may be
5 released to law enforcement or corrections agencies or to persons and
6 entities as authorized under RCW 9.41.815;

7 (5) Information revealing the specific details that describe an
8 alleged or proven child victim of sexual assault under age eighteen,
9 or the identity or contact information of an alleged or proven child
10 victim of sexual assault who is under age eighteen. Identifying
11 information includes the child victim's name, addresses, location,
12 photograph, and in cases in which the child victim is a relative,
13 stepchild, or stepsibling of the alleged perpetrator, identification
14 of the relationship between the child and the alleged perpetrator.
15 Contact information includes phone numbers, email addresses, social
16 media profiles, and user names and passwords;

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

20 (7) Data from the electronic sales tracking system established in
21 RCW 69.43.165;

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

27 (9) Personally identifying information collected by law
28 enforcement agencies pursuant to local security alarm system programs
29 and vacation crime watch programs. Nothing in this subsection shall
30 be interpreted so as to prohibit the legal owner of a residence or
31 business from accessing information regarding his or her residence or
32 business;

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

35 (11) The identity of a state employee or officer who has in good
36 faith filed a complaint with an ethics board, as provided in RCW
37 42.52.410, or who has in good faith reported improper governmental
38 action, as defined in RCW 42.40.020, to the auditor or other public
39 official, as defined in RCW 42.40.020;

1 (12) The following security threat group information collected
2 and maintained by the department of corrections pursuant to RCW
3 72.09.745: (a) Information that could lead to the identification of a
4 person's security threat group status, affiliation, or activities;
5 (b) information that reveals specific security threats associated
6 with the operation and activities of security threat groups; and (c)
7 information that identifies the number of security threat group
8 members, affiliates, or associates;

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

12 (14) Body worn camera recordings to the extent nondisclosure is
13 essential for the protection of any person's right to privacy as
14 described in RCW 42.56.050, including, but not limited to, the
15 circumstances enumerated in (a) of this subsection. A law enforcement
16 or corrections agency shall not disclose a body worn camera recording
17 to the extent the recording is exempt under this subsection.

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

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

23 (I) A patient is registered to receive treatment, receiving
24 treatment, waiting for treatment, or being transported in the course
25 of treatment; or

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

28 (B) Information that meets the definition of protected health
29 information for purposes of the health insurance portability and
30 accountability act of 1996 or health care information for purposes of
31 chapter 70.02 RCW;

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

34 (iii) An intimate image;

35 (iv) A minor;

36 (v) The body of a deceased person;

37 (vi) The identity of or communications from a victim or witness
38 of an incident involving domestic violence as defined in RCW
39 10.99.020 or sexual assault as defined in RCW 70.125.030, or
40 disclosure of intimate images as defined in RCW 9A.86.010. If at the

1 time of recording the victim or witness indicates a desire for
2 disclosure or nondisclosure of the recorded identity or
3 communications, such desire shall govern; or

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

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

9 (c) In a court action seeking the right to inspect or copy a body
10 worn camera recording, a person who prevails against a law
11 enforcement or corrections agency that withholds or discloses all or
12 part of a body worn camera recording pursuant to (a) of this
13 subsection is not entitled to fees, costs, or awards pursuant to RCW
14 42.56.550 unless it is shown that the law enforcement or corrections
15 agency acted in bad faith or with gross negligence.

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

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

19 (ii) Provide the incident or case number;

20 (iii) Provide the date, time, and location of the incident or
21 incidents; or

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

24 (e) (i) A person directly involved in an incident recorded by the
25 requested body worn camera recording, an attorney representing a
26 person directly involved in an incident recorded by the requested
27 body worn camera recording, a person or his or her attorney who
28 requests a body worn camera recording relevant to a criminal case
29 involving that person, or the executive director from either the
30 Washington state commission on African American affairs, Asian
31 Pacific American affairs, or Hispanic affairs, has the right to
32 obtain the body worn camera recording, subject to any exemption under
33 this chapter or any applicable law. In addition, an attorney who
34 represents a person regarding a potential or existing civil cause of
35 action involving the denial of civil rights under the federal or
36 state Constitution, or a violation of a United States department of
37 justice settlement agreement, has the right to obtain the body worn
38 camera recording if relevant to the cause of action, subject to any
39 exemption under this chapter or any applicable law. The attorney must
40 explain the relevancy of the requested body worn camera recording to

1 the cause of action and specify that he or she is seeking relief from
2 redaction costs under this subsection (14) (e).

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

8 (iii) A law enforcement or corrections agency may require any
9 person requesting a body worn camera recording pursuant to this
10 subsection (14) (e) to identify himself or herself to ensure he or she
11 is a person entitled to obtain the body worn camera recording under
12 this subsection (14) (e).

13 (f) (i) A law enforcement or corrections agency responding to a
14 request to disclose body worn camera recordings may require any
15 requester not listed in (e) of this subsection to pay the reasonable
16 costs of redacting, altering, distorting, pixelating, suppressing, or
17 otherwise obscuring any portion of the body worn camera recording
18 prior to disclosure only to the extent necessary to comply with the
19 exemptions in this chapter or any applicable law.

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

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

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

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

36 (ii) "Intimate image" means an individual or individuals engaged
37 in sexual activity, including sexual intercourse as defined in RCW
38 9A.44.010 and masturbation, or an individual's intimate body parts,
39 whether nude or visible through less than opaque clothing, including
40 the genitals, pubic area, anus, or postpubescent female nipple.

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

5 (i) Nothing in this section is intended to modify the obligations
6 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,
7 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*
8 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and
9 the relevant Washington court criminal rules and statutes.

10 (j) A law enforcement or corrections agency must retain body worn
11 camera recordings for at least sixty days and thereafter may destroy
12 the records in accordance with the applicable records retention
13 schedule;

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

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

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

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

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

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

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

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

29 (17) Information and records prepared, owned, used, or retained
30 by the Washington association of sheriffs and police chiefs and
31 information and records prepared, owned, used, or retained by the
32 Washington state patrol pursuant to chapter 261, Laws of 2017;
33 ((and))

34 (18) Any and all audio or video recordings of child forensic
35 interviews as defined in chapter 26.44 RCW. Such recordings are
36 confidential and may only be disclosed pursuant to a court order
37 entered upon a showing of good cause and with advance notice to the
38 child's parent, guardian, or legal custodian. However, if the child
39 is an emancipated minor or has attained the age of majority as
40 defined in RCW 26.28.010, advance notice must be to the child.

1 Failure to disclose an audio or video recording of a child forensic
2 interview as defined in chapter 26.44 RCW is not grounds for
3 penalties or other sanctions available under this chapter; and
4 (19) Information exempt from public disclosure and copying under
5 section 1(2)(f) of this act.

6 NEW SECTION. **Sec. 3.** This act does not create or limit any
7 private right of action.

8 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
9 this act, referencing this act by bill or chapter number, is not
10 provided by June 30, 2024, in the omnibus appropriations act, this
11 act is null and void.

12 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2025.

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