
SENATE BILL 5427

State of Washington

68th Legislature

2023 Regular Session

By Senators Valdez, Billig, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Lovick, Saldaña, Salomon, Stanford, and C. Wilson

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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, tracking hate crimes and bias incidents, and
4 creating a compensation program and assistance fund; amending RCW
5 42.56.240; adding new sections to chapter 43.10 RCW; creating new
6 sections; and providing an effective date.

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

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

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

14 (a) Accept reports of hate crimes and bias incidents made to the
15 hate crimes and bias incidents hotline;

16 (b) Provide appropriate crisis intervention, information, and
17 referral to people who have been targeted or affected by hate crimes
18 and bias incidents that is victim-centered, culturally competent, and
19 trauma-informed;

20 (c) Be as accessible to as many residents of Washington as
21 possible, regardless of language proficiency, as much as is

1 practically possible within the limits of the resources appropriated
2 to operate the hotline.

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

4 (i) Develop a standardized intake process for all reports of hate
5 crimes and bias incidents made to the hate crimes and bias incidents
6 hotline;

7 (ii) Identify local service providers to refer people who have
8 been targeted or affected by hate crimes and bias incidents;

9 (iii) Collect data describing the incident, location, date, and
10 real or perceived affected protected class, of each hate crime or
11 bias incident reported to the hate crimes and bias incidents hotline;

12 (iv) Review and analyze, at least annually, data pertaining to
13 hate crimes and bias incidents that has been submitted to the hate
14 crimes and bias incidents hotline; and

15 (v) No later than July 1, 2026, and at least annually thereafter,
16 provide information regarding hate crimes and bias incidents
17 occurring in Washington during the prior calendar year to the
18 governor, senate, and house of representatives, and make the
19 information publicly available on its website, excluding the personal
20 identifying information of any individual.

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

26 (3) Any law enforcement agency in this state that receives a
27 report of a hate crime or bias incident shall refer the targeted or
28 affected person to the hate crimes and bias incidents hotline.

29 (4) (a) No later than July 1, 2024, the attorney general's office
30 shall prepare a standard quarterly report form for use by law
31 enforcement agencies to report hate crimes and bias incidents, and
32 make the standard form available on its website. The standard form
33 should facilitate the collection and aggregation of information
34 concerning the incident, location, date, and real or perceived
35 affected protected class, of each hate crime or bias incident
36 reported to the hate crimes and bias incidents hotline.

37 (b) No later than January 30, 2025, and at least quarterly
38 thereafter, all law enforcement agencies in this state shall prepare
39 and send a report to the attorney general's office each quarter of
40 all reported hate crimes and bias incidents that occurred within the

1 reporting agency's jurisdiction in the prior quarter. The report must
2 describe the incident, location, date, and real or perceived affected
3 protected class of each reported hate crime and bias incident.

4 (5) (a) Whenever a hate crime or bias incident is reported to the
5 hate crimes and bias incidents hotline by a member of the public, the
6 hotline shall promptly share information concerning the incident,
7 location, date, and real or perceived affected protected class, of
8 the hate crime or bias incident with the primary local law
9 enforcement agency of the jurisdiction in which the hate crime or
10 bias incident occurred. The hotline shall anonymize the information
11 it shares such that the person targeted or affected by the hate crime
12 or bias incident cannot be identified unless the targeted or affected
13 person consents to being identified.

14 (b) If the person targeted or affected by the hate crime or bias
15 incident consents to sharing personal identifying information with
16 the primary local law enforcement agency of the jurisdiction in which
17 the hate crime or bias incident occurred, the hate crimes and bias
18 incidents hotline shall promptly share the targeted or affected
19 person's name, address, and contact information with the primary
20 local law enforcement agency. If the targeted or affected person
21 consents to share some but not all personal identifying information,
22 the hotline must share only the information the targeted or affected
23 person has consented to share.

24 (6) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Bias incident" means a person's hostile expression of animus
27 toward another person, relating to the other person's actual or
28 perceived race, color, religion, ancestry, national origin, gender,
29 sexual orientation, gender expression or identity, or mental,
30 physical, or sensory disability, of which criminal investigation or
31 prosecution is impossible or inappropriate. "Bias incident" does not
32 include any incident in which probable cause of the commission of a
33 crime is established by the investigating law enforcement officer.

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

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

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

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

7 (f) "Local service providers" means providers of services to
8 people who have been targeted or affected by hate crimes and bias
9 incidents, including without limitation crisis intervention,
10 advocacy, information and referral, and outreach and awareness, that
11 are located in the same geographic area that the hate crime or bias
12 incident occurred or where the targeted or affected person resides.

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

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

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.10
25 RCW to read as follows:

26 (1) The hate crime and bias incident compensation program is
27 created within the attorney general's office for the purpose of
28 providing compensation to persons targeted or affected by hate crimes
29 and bias incidents for damages or losses caused by such crimes and
30 incidents.

31 (2) The attorney general's office shall develop a standardized
32 claim form, and intake and evaluation process, for all claims made to
33 the hate crime and bias incident compensation program.

34 (3) The attorney general's office shall establish procedures and
35 rules for: (a) Approving and denying claims made to the hate crime
36 and bias incident compensation program; (b) tracking and evaluating
37 repeat claims; (c) requesting, processing, and reviewing
38 documentation and other evidence submitted in support of claims; (d)
39 paying approved claims; and (e) prioritizing or otherwise resolving

1 claims when the amount of funds remaining in the Washington hate
2 crime and bias incident account is inadequate to meet all current
3 claims, or is anticipated to be inadequate to meet future claims.

4 (4) The attorney general's office may provide compensation to
5 persons targeted or affected by hate crimes and bias incidents by
6 authorizing expenditures from the Washington hate crime and bias
7 incident account, established in section 3 of this act, up to a
8 maximum of \$2,000 per person targeted or affected by a specific hate
9 crime or bias incident, subject to the availability of funds in the
10 account and the requirements of this act.

11 (5) As used in this section, "bias incident" and "hate crime"
12 have the meanings defined in section 1 of this act.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.10
14 RCW to read as follows:

15 (1) The Washington hate crime and bias incident account is
16 created in the custody of the state treasurer. The account shall
17 consist of funds appropriated by the legislature for the purpose of
18 the hate crimes and bias incident compensation program, and all
19 receipts from gifts, grants, bequests, devises, or other funds from
20 public and private sources provided for the purpose of compensating
21 persons targeted or affected by hate crimes or bias incidents for
22 damages or losses caused by such crimes and incidents. Only the
23 attorney general, or the attorney general's designee, may authorize
24 expenditures from the account to compensate persons targeted or
25 affected by hate crimes and bias incidents for damages or losses
26 caused by such crimes and incidents, consistent with section 2 of
27 this act.

28 (2) The Washington hate crime and bias incident account is
29 subject to allotment procedures under chapter 43.88 RCW, but an
30 appropriation is not required for expenditures.

31 **Sec. 4.** RCW 42.56.240 and 2022 c 268 s 31 are each amended to
32 read as follows:

33 The following investigative, law enforcement, and crime victim
34 information is exempt from public inspection and copying under this
35 chapter:

36 (1) Specific intelligence information and specific investigative
37 records compiled by investigative, law enforcement, and penology
38 agencies, and state agencies vested with the responsibility to

1 discipline members of any profession, the nondisclosure of which is
2 essential to effective law enforcement or for the protection of any
3 person's right to privacy;

4 (2) Information revealing the identity of persons who are
5 witnesses to or victims of crime or who file complaints with
6 investigative, law enforcement, or penology agencies, other than the
7 commission, if disclosure would endanger any person's life, physical
8 safety, or property. If at the time a complaint is filed the
9 complainant, victim, or witness indicates a desire for disclosure or
10 nondisclosure, such desire shall govern. However, all complaints
11 filed with the commission about any elected official or candidate for
12 public office must be made in writing and signed by the complainant
13 under oath;

14 (3) Any records of investigative reports prepared by any state,
15 county, municipal, or other law enforcement agency pertaining to sex
16 offenses contained in chapter 9A.44 RCW or sexually violent offenses
17 as defined in RCW 71.09.020, which have been transferred to the
18 Washington association of sheriffs and police chiefs for permanent
19 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

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

24 (5) Information revealing the specific details that describe an
25 alleged or proven child victim of sexual assault under age eighteen,
26 or the identity or contact information of an alleged or proven child
27 victim of sexual assault who is under age eighteen. Identifying
28 information includes the child victim's name, addresses, location,
29 photograph, and in cases in which the child victim is a relative,
30 stepchild, or stepsibling of the alleged perpetrator, identification
31 of the relationship between the child and the alleged perpetrator.
32 Contact information includes phone numbers, email addresses, social
33 media profiles, and user names and passwords;

34 (6) Information contained in a local or regionally maintained
35 gang database as well as the statewide gang database referenced in
36 RCW 43.43.762;

37 (7) Data from the electronic sales tracking system established in
38 RCW 69.43.165;

39 (8) Information submitted to the statewide unified sex offender
40 notification and registration program under RCW 36.28A.040(6) by a

1 person for the purpose of receiving notification regarding a
2 registered sex offender, including the person's name, residential
3 address, and email address;

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

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

12 (11) The identity of a state employee or officer who has in good
13 faith filed a complaint with an ethics board, as provided in RCW
14 42.52.410, or who has in good faith reported improper governmental
15 action, as defined in RCW 42.40.020, to the auditor or other public
16 official, as defined in RCW 42.40.020;

17 (12) The following security threat group information collected
18 and maintained by the department of corrections pursuant to RCW
19 72.09.745: (a) Information that could lead to the identification of a
20 person's security threat group status, affiliation, or activities;
21 (b) information that reveals specific security threats associated
22 with the operation and activities of security threat groups; and (c)
23 information that identifies the number of security threat group
24 members, affiliates, or associates;

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

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

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

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

1 (I) A patient is registered to receive treatment, receiving
2 treatment, waiting for treatment, or being transported in the course
3 of treatment; or
4 (II) Health care information is shared with patients, their
5 families, or among the care team; or
6 (B) Information that meets the definition of protected health
7 information for purposes of the health insurance portability and
8 accountability act of 1996 or health care information for purposes of
9 chapter 70.02 RCW;
10 (ii) The interior of a place of residence where a person has a
11 reasonable expectation of privacy;
12 (iii) An intimate image;
13 (iv) A minor;
14 (v) The body of a deceased person;
15 (vi) The identity of or communications from a victim or witness
16 of an incident involving domestic violence as defined in RCW
17 10.99.020 or sexual assault as defined in RCW 70.125.030, or
18 disclosure of intimate images as defined in RCW 9A.86.010. If at the
19 time of recording the victim or witness indicates a desire for
20 disclosure or nondisclosure of the recorded identity or
21 communications, such desire shall govern; or
22 (vii) The identifiable location information of a community-based
23 domestic violence program as defined in RCW 70.123.020, or emergency
24 shelter as defined in RCW 70.123.020.
25 (b) The presumptions set out in (a) of this subsection may be
26 rebutted by specific evidence in individual cases.
27 (c) In a court action seeking the right to inspect or copy a body
28 worn camera recording, a person who prevails against a law
29 enforcement or corrections agency that withholds or discloses all or
30 part of a body worn camera recording pursuant to (a) of this
31 subsection is not entitled to fees, costs, or awards pursuant to RCW
32 42.56.550 unless it is shown that the law enforcement or corrections
33 agency acted in bad faith or with gross negligence.
34 (d) A request for body worn camera recordings must:
35 (i) Specifically identify a name of a person or persons involved
36 in the incident;
37 (ii) Provide the incident or case number;
38 (iii) Provide the date, time, and location of the incident or
39 incidents; or

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

3 (e) (i) A person directly involved in an incident recorded by the
4 requested body worn camera recording, an attorney representing a
5 person directly involved in an incident recorded by the requested
6 body worn camera recording, a person or his or her attorney who
7 requests a body worn camera recording relevant to a criminal case
8 involving that person, or the executive director from either the
9 Washington state commission on African American affairs, Asian
10 Pacific American affairs, or Hispanic affairs, has the right to
11 obtain the body worn camera recording, subject to any exemption under
12 this chapter or any applicable law. In addition, an attorney who
13 represents a person regarding a potential or existing civil cause of
14 action involving the denial of civil rights under the federal or
15 state Constitution, or a violation of a United States department of
16 justice settlement agreement, has the right to obtain the body worn
17 camera recording if relevant to the cause of action, subject to any
18 exemption under this chapter or any applicable law. The attorney must
19 explain the relevancy of the requested body worn camera recording to
20 the cause of action and specify that he or she is seeking relief from
21 redaction costs under this subsection (14) (e).

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

27 (iii) A law enforcement or corrections agency may require any
28 person requesting a body worn camera recording pursuant to this
29 subsection (14) (e) to identify himself or herself to ensure he or she
30 is a person entitled to obtain the body worn camera recording under
31 this subsection (14) (e).

32 (f) (i) A law enforcement or corrections agency responding to a
33 request to disclose body worn camera recordings may require any
34 requester not listed in (e) of this subsection to pay the reasonable
35 costs of redacting, altering, distorting, pixelating, suppressing, or
36 otherwise obscuring any portion of the body worn camera recording
37 prior to disclosure only to the extent necessary to comply with the
38 exemptions in this chapter or any applicable law.

39 (ii) An agency that charges redaction costs under this subsection
40 (14) (f) must use redaction technology that provides the least costly

1 commercially available method of redacting body worn camera
2 recordings, to the extent possible and reasonable.

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

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

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

15 (ii) "Intimate image" means an individual or individuals engaged
16 in sexual activity, including sexual intercourse as defined in RCW
17 9A.44.010 and masturbation, or an individual's intimate body parts,
18 whether nude or visible through less than opaque clothing, including
19 the genitals, pubic area, anus, or postpubescent female nipple.

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

24 (i) Nothing in this section is intended to modify the obligations
25 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,
26 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*
27 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and
28 the relevant Washington court criminal rules and statutes.

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

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

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

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

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

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

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

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

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

8 (17) Information and records prepared, owned, used, or retained
9 by the Washington association of sheriffs and police chiefs and
10 information and records prepared, owned, used, or retained by the
11 Washington state patrol pursuant to chapter 261, Laws of 2017;
12 ((and))

13 (18) Any and all audio or video recordings of child forensic
14 interviews as defined in chapter 26.44 RCW. Such recordings are
15 confidential and may only be disclosed pursuant to a court order
16 entered upon a showing of good cause and with advance notice to the
17 child's parent, guardian, or legal custodian. However, if the child
18 is an emancipated minor or has attained the age of majority as
19 defined in RCW 26.28.010, advance notice must be to the child.
20 Failure to disclose an audio or video recording of a child forensic
21 interview as defined in chapter 26.44 RCW is not grounds for
22 penalties or other sanctions available under this chapter; and

23 (19) Information exempt from public disclosure and copying under
24 section 1(2)(b) of this act.

25 NEW SECTION. Sec. 5. This act does not create or limit any
26 private right of action.

27 NEW SECTION. Sec. 6. If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2023, in the omnibus appropriations act, this
30 act is null and void.

31 NEW SECTION. Sec. 7. This act takes effect January 1, 2024.

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