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**SUBSTITUTE SENATE BILL 6189**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senate Human Services (originally sponsored by Senators Saldaña, C. Wilson, Frame, Hasegawa, Nguyen, Nobles, Trudeau, and Valdez)

READ FIRST TIME 01/26/24.

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 seven 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) Two persons with lived experience being incarcerated in a  
27 Washington jail;

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 and

33 (f) One person who is a current or former jail employee.

34 (2) Members shall be appointed by the governor. Two of the  
35 initial members of the board shall be appointed for a term of one  
36 year, two for a term of two years, one for a term of three years, one  
37 for a term of four years, and one for a term of five years.  
38 Successors to the initial members shall be appointed for terms of

1 five years each, except that any individual chosen to fill a vacancy  
2 shall be appointed only for the unexpired term of the member whom the  
3 individual succeeds.

4 (3) Members shall be eligible for reappointment.

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

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

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

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

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

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

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

1 declines to select any of the candidates provided, in which case the  
2 governor may request additional candidates from the board or suggest  
3 candidates to the board for consideration.

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

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

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

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

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

20 (2) The board or its staff shall:

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

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

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

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

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

38 (f) Write and publish reports within two months of such  
39 monitoring visits that shall include nonidentifiable case studies or

1 other information necessary to support any findings and any written  
2 response from a jail administrator or their designee to such reports;

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

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

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

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

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

19 (l) Adopt rules, policies, and procedures necessary to implement  
20 this chapter; and

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

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

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

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

1 staffing, training, or supervision; programming and reentry services;  
2 substance use disorder services; restrictive housing; and incidents  
3 of sexual assault and harassment.

4 (2) The board shall consult with interested stakeholders  
5 including jail administrators and organizations representing jail  
6 employees to develop the uniform jail reporting system.

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

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

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

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

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

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

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

38 (2) Following a written demand from the director or the  
39 director's designees for access to information, records, or

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

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

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

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

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

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

32 (3) The board shall maintain the confidentiality of all matters  
33 under investigation, complaints, and the identities of complainants,  
34 informants, or witnesses except so far as disclosures may be  
35 determined necessary by the director or their designees to enable the  
36 board to carry out its duties or to support its recommendations. Such  
37 information shall be exempt from public disclosure under chapter  
38 42.56 RCW.



1 (4) Neither the board or an employee of the board may be  
2 compelled, in any judicial or administrative proceeding, to testify  
3 or to produce evidence regarding the exercise of the official duties  
4 of the board or its employees. All related memoranda, work product,  
5 notes, and case files of the board are confidential, are not subject  
6 to discovery, judicial or administrative subpoena, or other method of  
7 legal compulsion, and are not admissible in evidence in a judicial or  
8 administrative proceeding.

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

12 (6) Nothing in this section shall prevent the board from  
13 reporting the results of an investigation which maintains the  
14 confidentiality of the identities of incarcerated individuals to  
15 responsible investigative or enforcement agencies should an  
16 investigation reveal information concerning a jail, its staff, or  
17 agents warranting possible sanctions or corrective action. Such  
18 information may be reported to agencies responsible for facility  
19 licensing or accreditation, employee discipline, employee licensing  
20 or certification, law enforcement, or criminal prosecution, provided  
21 that nothing in this section shall be deemed to reduce or modify the  
22 contractual, statutory, or due process rights of any jail employee  
23 with respect to any proceeding related to employee discipline,  
24 employee licensing or certification, or criminal prosecution.

25 The director must contact the jail employee and the bargaining  
26 unit representative before reporting the results of an investigation  
27 that reveals information warranting possible sanctions or corrective  
28 action about a jail employee.

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

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

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

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

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

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

10 (b) The city or county department of corrections or chief law  
11 enforcement officer shall convene an unexpected fatality review team  
12 and determine the membership of the review team. The team shall  
13 comprise of the director of the jail oversight board or their  
14 designee in accordance with section 8 of this act and individuals  
15 with appropriate expertise including, but not limited to, individuals  
16 whose professional expertise is pertinent to the dynamics of the  
17 case. The city or county department of corrections or chief law  
18 enforcement officer shall ensure that the unexpected fatality review  
19 team is made up of individuals who had no previous involvement in the  
20 case.

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

26 (d) Upon conclusion of an unexpected fatality review required  
27 pursuant to this section, the city or county department of  
28 corrections or chief law enforcement officer shall, within 120 days  
29 following the fatality, issue a report on the results of the review,  
30 unless an extension has been granted by the chief executive or, if  
31 appropriate, the county legislative authority of the governing unit  
32 with primary responsibility for the operation of the jail. Reports  
33 must be distributed to the governing unit with primary responsibility  
34 for the operation of the jail and appropriate committees of the  
35 legislature, and the (~~department of health~~) jail oversight board  
36 shall create a public website where all unexpected fatality review  
37 reports required under this section must be posted and maintained. An  
38 unexpected fatality review report completed pursuant to this section  
39 is subject to public disclosure and must be posted on the

1 ((~~department of health~~)) jail oversight board public website, except  
2 that confidential information may be redacted by the city or county  
3 department of corrections or chief law enforcement officer consistent  
4 with the requirements of applicable state and federal laws.

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

8 (2) In any review of an unexpected fatality, the city or county  
9 department of corrections or chief law enforcement officer and the  
10 unexpected fatality review team shall have access to all records and  
11 files regarding the person or otherwise relevant to the review that  
12 have been produced or retained by the agency.

13 (3) (a) An unexpected fatality review completed pursuant to this  
14 section is subject to discovery in a civil or administrative  
15 proceeding, but may not be admitted into evidence or otherwise used  
16 in a civil or administrative proceeding except pursuant to this  
17 section.

18 (b) An employee of a city or county department of corrections or  
19 law enforcement employee responsible for conducting an unexpected  
20 fatality review, or member of an unexpected fatality review team, may  
21 not be examined in a civil or administrative proceeding regarding:  
22 (i) The work of the unexpected fatality review team; (ii) the  
23 incident under review; (iii) his or her statements, deliberations,  
24 thoughts, analyses, or impressions relating to the work of the  
25 unexpected fatality review team or the incident under review; or (iv)  
26 the statements, deliberations, thoughts, analyses, or impressions of  
27 any other member of the unexpected fatality review team, or any  
28 person who provided information to the unexpected fatality review  
29 team relating to the work of the unexpected fatality review team or  
30 the incident under review.

31 (c) Documents prepared by or for an unexpected fatality review  
32 team are inadmissible and may not be used in a civil or  
33 administrative proceeding, except that any document that exists  
34 before its use or consideration in an unexpected fatality review, or  
35 that is created independently of such review, does not become  
36 inadmissible merely because it is reviewed or used by an unexpected  
37 fatality review team. A person is not unavailable as a witness merely  
38 because the person has been interviewed by, or has provided a  
39 statement for, an unexpected fatality review, but if the person is  
40 called as a witness, the person may not be examined regarding the

1 person's interactions with the unexpected fatality review including,  
2 without limitation, whether the person was interviewed during such  
3 review, the questions that were asked during such review, and the  
4 answers that the person provided during such review. This section may  
5 not be construed as restricting the person from testifying fully in  
6 any proceeding regarding his or her knowledge of the incident under  
7 review.

8 (d) The restrictions set forth in this section do not apply in a  
9 licensing or disciplinary proceeding arising from an agency's effort  
10 to revoke or suspend the license of any licensed professional based  
11 in whole or in part upon allegations of wrongdoing in connection with  
12 an unexpected fatality reviewed by an unexpected fatality review  
13 team.

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

17 (5) For the purposes of this section:

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

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

25 (c) "Unexpected fatality review" means a review of any death that  
26 was not the result of a diagnosed or documented terminal illness or  
27 other debilitating or deteriorating illness or condition where the  
28 death was anticipated, and includes the death of any person under the  
29 care and custody of the city or county department of corrections or  
30 chief local enforcement officer, regardless of where the death  
31 actually occurred. A review must include an analysis of the root  
32 cause or causes of the unexpected fatality, and an associated  
33 corrective action plan for the jail to address identified root causes  
34 and recommendations made by the unexpected fatality review team under  
35 this section.

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

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