

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 1028**

Chapter 197, Laws of 2023

68th Legislature  
2023 Regular Session

CRIME VICTIMS AND WITNESSES—SEXUAL ASSAULT—VARIOUS PROVISIONS

EFFECTIVE DATE: July 23, 2023—Except for section 4, which takes effect July 1, 2024.

Passed by the House April 13, 2023  
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 11, 2023  
Yeas 49 Nays 0

DENNY HECK

**President of the Senate**

Approved May 1, 2023 2:45 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1028** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 2, 2023

**Secretary of State  
State of Washington**

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**SECOND SUBSTITUTE HOUSE BILL 1028**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington                      68th Legislature                      2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Orwall, Mosbrucker, Ryu, Simmons, Goodman, Reed, Lekanoff, Pollet, Callan, Doglio, Macri, Caldier, Reeves, Wylie, Gregerson, Davis, Ormsby, and Fosse)

READ FIRST TIME 02/24/23.

1            AN ACT Relating to supporting crime victims and witnesses by  
2 promoting victim-centered, trauma-informed responses in the legal  
3 system; amending RCW 43.101.272, 43.101.276, 43.101.278, 43.43.754,  
4 9A.04.080, 9A.44.020, and 7.69.030; adding a new section to chapter  
5 43.10 RCW; adding new sections to chapter 43.101 RCW; adding a new  
6 section to chapter 70.02 RCW; creating a new section; providing an  
7 effective date; and providing an expiration date.

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

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

11            (1)(a) The sexual assault forensic examination best practices  
12 advisory group is established within the office of the attorney  
13 general for the purpose of reviewing best practice models for  
14 managing all aspects of sexual assault investigations and for  
15 reducing the number of untested sexual assault kits in Washington  
16 state.

17            (i) The caucus leaders from the senate shall appoint one member  
18 from each of the two largest caucuses of the senate.

19            (ii) The caucus leaders from the house of representatives shall  
20 appoint one member from each of the two largest caucuses of the house  
21 of representatives.

1 (iii) The attorney general, in consultation with the legislative  
2 members of the advisory group, shall appoint:

3 (A) One member representing each of the following:

4 (I) The Washington state patrol;

5 (II) The Washington association of sheriffs and police chiefs;

6 (III) The Washington association of prosecuting attorneys;

7 (IV) The Washington defender association or the Washington  
8 association of criminal defense lawyers;

9 (V) The Washington association of cities;

10 (VI) The Washington association of county officials;

11 (VII) The Washington coalition of sexual assault programs;

12 (VIII) The office of crime victims advocacy;

13 (IX) The Washington state hospital association;

14 (X) The office of the attorney general; and

15 (XI) The criminal justice training commission;

16 (B) Two members representing survivors of sexual assault;

17 (C) One member who is a sexual assault nurse examiner;

18 (D) Two members who are law enforcement officers, one from a  
19 rural area and one from an urban area of the state;

20 (E) One member who is a prosecuting attorney serving in a county  
21 in a rural area of the state; and

22 (F) Two members who are community-based advocates, one from a  
23 rural area and one from an urban area of the state.

24 (b) When appointing members under (a)(iii)(D) of this subsection,  
25 the office of the attorney general shall solicit recommendations from  
26 statewide labor organizations representing law enforcement officers.

27 (2) The duties of the advisory group include, but are not limited  
28 to:

29 (a) Researching the best practice models both in state and from  
30 other states for collaborative responses to victims of sexual assault  
31 from the point the sexual assault kit is collected to the conclusion  
32 of the investigation and prosecution of a case, and providing  
33 recommendations regarding any existing gaps in Washington and  
34 resources that may be necessary to address those gaps;

35 (b) Researching and making recommendations on opportunities to  
36 increase access to, and availability of, critical sexual assault  
37 nurse examiner services;

38 (c) Monitoring the testing of the backlog of sexual assault kits  
39 and the supply chain and distribution of sexual assault kits;

1 (d) Monitoring implementation of state and federal legislative  
2 changes;

3 (e) Collaborating with the legislature, state agencies, medical  
4 facilities, and local governments to implement reforms pursuant to  
5 federal grant requirements; and

6 (f) Making recommendations for institutional reforms necessary to  
7 prevent sexual assault and improve the experiences of sexual assault  
8 survivors in the criminal justice system.

9 (3) The office of the attorney general shall administer and  
10 provide staff support to the advisory group.

11 (4) Legislative members of the advisory group must be reimbursed  
12 for travel expenses in accordance with RCW 44.04.120. Nonlegislative  
13 members, except those representing an employer or organization, are  
14 entitled to be reimbursed for travel expenses in accordance with RCW  
15 43.03.050 and 43.03.060.

16 (5) The advisory group must meet no less than twice annually.

17 (6) The advisory group shall report its findings and  
18 recommendations to the appropriate committees of the legislature and  
19 the governor by December 15th of each year.

20 (7) This section expires July 1, 2026.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101  
22 RCW to read as follows:

23 (1) Subject to the availability of amounts appropriated for this  
24 specific purpose, the commission shall administer a grant program for  
25 establishing a statewide resource prosecutor for sexual assault  
26 cases.

27 (2) The grant recipient must be a statewide organization or  
28 association representing prosecuting attorneys. The grant recipient  
29 shall hire a resource prosecutor for the following purposes:

30 (a) To provide technical assistance and research to prosecutors  
31 for prosecuting sexual assault cases;

32 (b) To provide additional training and resources to prosecutors  
33 to support a trauma-informed, victim-centered approach to prosecuting  
34 sexual assault cases;

35 (c) To meet regularly with law enforcement agencies and  
36 prosecutors to explain legal issues and prosecutorial approaches to  
37 sexual assault cases and provide and receive feedback to improve case  
38 outcomes;

1 (d) To consult with the commission, the office of the attorney  
2 general, and the sexual assault forensic examination best practices  
3 advisory group under section 1 of this act with respect to developing  
4 and implementing best practices for prosecuting sexual assault cases  
5 across the state; and

6 (e) To comply with other requirements established by the  
7 commission under this section.

8 (3) The commission may, in consultation with the sexual assault  
9 forensic examination best practices advisory group under section 1 of  
10 this act, establish additional appropriate conditions for any grant  
11 awarded under this section. The commission may adopt necessary  
12 policies and procedures to implement and administer the grant  
13 program, including monitoring the use of grant funds and compliance  
14 with the grant requirements.

15 **Sec. 3.** RCW 43.101.272 and 2019 c 93 s 5 are each amended to  
16 read as follows:

17 (1) Subject to the availability of amounts appropriated for this  
18 specific purpose, the commission shall provide ongoing specialized,  
19 intensive, and integrative training for persons responsible for  
20 investigating sexual assault (~~eases~~) and other gender-based  
21 violence involving adult victims, and the highest ranking supervisors  
22 and commanders overseeing sexual assault and other gender-based  
23 violence investigations. The training must be based on a victim-  
24 centered, trauma-informed approach to responding to sexual assault.  
25 Among other subjects, the training must include content on the  
26 neurobiology of trauma and trauma-informed interviewing, counseling,  
27 and investigative techniques.

28 (2) The training must: Be based on research-based practices and  
29 standards; offer participants an opportunity to practice interview  
30 skills and receive feedback from instructors; minimize the trauma of  
31 all persons who are interviewed during abuse investigations; provide  
32 methods of reducing the number of investigative interviews necessary  
33 whenever possible; assure, to the extent possible, that investigative  
34 interviews are thorough, objective, and complete; recognize needs of  
35 special populations; recognize the nature and consequences of  
36 victimization; require investigative interviews to be conducted in a  
37 manner most likely to permit the interviewed persons the maximum  
38 emotional comfort under the circumstances; address record retention  
39 and retrieval; address documentation of investigative interviews; and

1 educate investigators on the best practices for notifying victims of  
2 the results of forensic analysis of sexual assault kits and other  
3 significant events in the investigative process, including for active  
4 investigations and cold cases.

5 (3) In developing the training, the commission shall seek advice  
6 from the Washington association of sheriffs and police chiefs, the  
7 Washington coalition of sexual assault programs, and experts on  
8 sexual assault, gender-based violence, and the neurobiology of  
9 trauma. The commission shall consult with the Washington association  
10 of prosecuting attorneys in an effort to design training containing  
11 consistent elements for all professionals engaged in interviewing and  
12 interacting with sexual assault victims in the criminal justice  
13 system.

14 (4) (~~The commission shall develop the training and begin~~  
15 ~~offering it by July 1, 2018.~~) Officers assigned to regularly  
16 investigate sexual assault and other gender-based violence involving  
17 adult victims and the highest ranking supervisors and commanders  
18 overseeing those investigations shall complete the training within  
19 one year of being assigned (~~or by July 1, 2020, whichever is~~  
20 ~~later~~).

21 **Sec. 4.** RCW 43.101.276 and 2017 c 290 s 5 are each amended to  
22 read as follows:

23 (1) Subject to the availability of amounts appropriated for this  
24 specific purpose, the commission shall develop peace officer training  
25 on a victim-centered, trauma-informed approach to interacting with  
26 victims and responding to (~~sexual assault~~) calls involving gender-  
27 based violence. The curriculum must: Be (~~designed for commissioned~~  
28 ~~patrol officers not regularly assigned to investigate sexual assault~~  
29 ~~eases; be~~) designed for deployment and use within individual law  
30 enforcement agencies; include features allowing for it to be used in  
31 different environments, which may include multimedia or video  
32 components; and allow for law enforcement agencies to host it in  
33 small segments at different times over several days or weeks,  
34 including roll calls. The training must include components on  
35 available resources for victims including, but not limited to,  
36 material on and references to community-based victim advocates.

37 (2) In developing the training, the commission shall seek advice  
38 from the Washington association of sheriffs and police chiefs, the  
39 Washington coalition of sexual assault programs, and experts on

1 sexual assault, gender-based violence, and the neurobiology of  
2 trauma.

3 ~~(3) ((Beginning in 2018, all law enforcement agencies shall~~  
4 ~~annually host the training for commissioned peace officers. All law~~  
5 ~~enforcement agencies shall, to the extent feasible, consult with and~~  
6 ~~feature local community-based victim advocates during the training.))~~  
7 All peace officers shall complete the training under this section at  
8 least once every three years.

9 **Sec. 5.** RCW 43.101.278 and 2021 c 118 s 3 are each amended to  
10 read as follows:

11 (1) Subject to the availability of amounts appropriated for this  
12 specific purpose, the commission shall conduct an annual case review  
13 program. The program must review case files from law enforcement  
14 agencies and prosecuting attorneys selected by the commission in  
15 order to identify changes to training and investigatory practices  
16 necessary to optimize outcomes in sexual assault investigations and  
17 prosecutions involving adult victims. The program must include:

18 (a) An evaluation of whether current training and practices  
19 foster a trauma-informed, victim-centered approach to victim  
20 interviews and that identifies best practices and current gaps in  
21 training and assesses the integration of the community resiliency  
22 model;

23 (b) A comparison of cases involving investigators and  
24 interviewers who have participated in training to cases involving  
25 investigators and interviewers who have not participated in training;

26 (c) A comparison of cases involving prosecutors who have  
27 participated in the training described in section 6 of this act to  
28 cases involving prosecutors who have not participated in such  
29 training;

30 (d) Randomly selected cases for a systematic review to assess  
31 whether current practices conform to national best practices for a  
32 multidisciplinary approach to investigating and prosecuting sexual  
33 assault cases and interacting with survivors; and

34 ~~((d))~~ (e) An analysis of the impact that race and ethnicity  
35 have on sexual assault case outcomes.

36 (2) The case review program may review and access files,  
37 including all reports and recordings, pertaining to closed cases  
38 involving allegations of adult sexual assault only. Any law  
39 enforcement agency or prosecuting attorney selected for the program

1 by the commission shall make requested case files and other documents  
2 available to the commission, provided that the case files are not  
3 linked to ongoing, open investigations and that redactions may be  
4 made where appropriate and necessary. Agencies and prosecuting  
5 attorneys shall include available information on the race and  
6 ethnicity of all sexual assault victims in the relevant case files  
7 provided to the commission. Case files and other documents must be  
8 made available to the commission according to appropriate deadlines  
9 established by the commission in consultation with the agency or  
10 prosecuting attorney.

11 (3) If a law enforcement agency has not participated in the  
12 training under RCW 43.101.272 (~~by July 1, 2022~~) or 43.101.276  
13 within the previous 24 months, the commission may prioritize the  
14 agency for selection to participate in the program under this  
15 section.

16 (4) In designing and conducting the program, the commission shall  
17 consult and collaborate with experts in trauma-informed and victim-  
18 centered training, experts in sexual assault investigations and  
19 prosecutions, victim advocates, and other stakeholders identified by  
20 the commission. The commission may form a multidisciplinary working  
21 group for the purpose of carrying out the requirements of this  
22 section.

23 (5) The commission shall submit a report with a summary of its  
24 work to the governor and the appropriate committees of the  
25 legislature by December 1st of each year.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.101  
27 RCW to read as follows:

28 (1) Subject to the availability of amounts appropriated for this  
29 specific purpose, the commission shall, in partnership with the  
30 special resource prosecutor under section 2 of this act, develop and  
31 conduct specialized, intensive, and integrative training for persons  
32 responsible for prosecuting sexual assault cases involving adult  
33 victims.

34 (2) The training must:

35 (a) Use a victim-centered, trauma-informed approach to  
36 prosecuting sexual assaults including, but not limited to, the  
37 following goals: Recognizing the nature and consequences of  
38 victimization; prioritizing the safety and well-being of victims; and  
39 recognizing the needs of special populations;



1 (b) Include content on the neurobiology of trauma and trauma-  
2 informed interviewing, counseling, investigative, and prosecution  
3 techniques;

4 (c) Offer participants an opportunity to practice interview and  
5 trial skills, including receiving feedback from instructors;

6 (d) Share best practices for communicating with victims  
7 throughout the criminal justice process;

8 (e) Include additional content relevant to and informed by best  
9 practices for improving outcomes in sexual assault prosecutions, as  
10 deemed appropriate by the commission;

11 (f) Take into account the training under RCW 43.101.272 in order  
12 to provide consistent and complimentary training for investigators  
13 and prosecutors;

14 (g) Be designed to qualify for some continuing legal education  
15 credits through the Washington state bar association; and

16 (h) Be offered at least once per calendar year and be deployed in  
17 different locations across the state, or through some other broadly  
18 accessible means, in order to improve access to the training for  
19 prosecutors serving in small offices or rural areas.

20 **Sec. 7.** RCW 43.43.754 and 2021 c 215 s 149 are each amended to  
21 read as follows:

22 (1) A biological sample must be collected for purposes of DNA  
23 identification analysis from:

24 (a) Every adult or juvenile individual convicted of a felony, or  
25 adjudicated of an offense which if committed by an adult would be a  
26 felony, or any of the following crimes (or equivalent juvenile  
27 offenses):

28 (i) Assault in the fourth degree where domestic violence as  
29 defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041,  
30 9.94A.030);

31 (ii) Assault in the fourth degree with sexual motivation (RCW  
32 9A.36.041, 9.94A.835);

33 (iii) Communication with a minor for immoral purposes (RCW  
34 9.68A.090);

35 (iv) Custodial sexual misconduct in the second degree (RCW  
36 9A.44.170);

37 (v) Failure to register (chapter 9A.44 RCW);

38 (vi) Harassment (RCW 9A.46.020);

39 (vii) Patronizing a prostitute (RCW 9A.88.110);

1 (viii) Sexual misconduct with a minor in the second degree (RCW  
2 9A.44.096);

3 (ix) Stalking (RCW 9A.46.110);

4 (x) Indecent exposure (RCW 9A.88.010);

5 (xi) Violation of a sexual assault protection order granted under  
6 chapter 7.105 RCW or former chapter 7.90 RCW; and

7 (b) Every adult or juvenile individual who is required to  
8 register under RCW 9A.44.130.

9 (2)(a) A municipal jurisdiction may also submit any biological  
10 sample to the laboratory services bureau of the Washington state  
11 patrol for purposes of DNA identification analysis when:

12 (i) The sample was collected from a defendant upon conviction for  
13 a municipal offense where the underlying ordinance does not adopt the  
14 relevant state statute by reference but the offense is otherwise  
15 equivalent to an offense in subsection (1)(a) of this section;

16 (ii) The equivalent offense in subsection (1)(a) of this section  
17 was an offense for which collection of a biological sample was  
18 required under this section at the time of the conviction; and

19 (iii) The sample was collected on or after June 12, 2008, and  
20 before January 1, 2020.

21 (b) When submitting a biological sample under this subsection,  
22 the municipal jurisdiction must include a signed affidavit from the  
23 municipal prosecuting authority of the jurisdiction in which the  
24 conviction occurred specifying the state crime to which the municipal  
25 offense is equivalent.

26 (3) Law enforcement may submit to the forensic laboratory  
27 services bureau of the Washington state patrol, for purposes of DNA  
28 identification analysis, any lawfully obtained biological sample  
29 within its control from a deceased offender who was previously  
30 convicted of an offense under subsection (1)(a) of this section,  
31 regardless of the date of conviction.

32 (4) If the Washington state patrol crime laboratory already has a  
33 DNA sample from an individual for a qualifying offense, a subsequent  
34 submission is not required to be submitted.

35 (5) Biological samples shall be collected in the following  
36 manner:

37 (a) (i) (A) For persons convicted of any offense listed in  
38 subsection (1)(a) of this section or adjudicated guilty of an  
39 equivalent juvenile offense, who do not serve a term of confinement  
40 in a department of corrections facility or a department of children,

1 youth, and families facility, and are serving a term of confinement  
2 in a city or county jail facility, the city or county jail facility  
3 shall be responsible for obtaining the biological samples prior to  
4 the person's release from confinement.

5 (B) Each city and county jail facility must adopt and implement a  
6 policy that collects biological samples from persons convicted of an  
7 offense listed in subsection (1)(a) of this section as soon as  
8 practicable during the person's term of confinement.

9 (ii) If the biological sample is not collected prior to the  
10 person's release from confinement, the responsible city or county  
11 jail facility shall notify the sentencing court within three business  
12 days of the person's release that it has released the person without  
13 collecting the person's biological sample, and provide the reason for  
14 releasing the person without collecting a biological sample. Within  
15 10 days of receiving notice of the person's release, the sentencing  
16 court shall schedule a compliance hearing. The jail shall serve or  
17 cause to be served notice to the person of the compliance hearing and  
18 shall file proof of service with the sentencing court. A  
19 representative of the jail shall attend the compliance hearing and  
20 obtain the person's biological sample at the hearing. The court may,  
21 in its discretion, require the jail to pay attorneys' fees and court  
22 costs associated with scheduling and attending the compliance  
23 hearing.

24 (b) The local police department or sheriff's office shall be  
25 responsible for obtaining the biological samples for:

26 (i) Persons convicted of any offense listed in subsection (1)(a)  
27 of this section or adjudicated guilty of an equivalent juvenile  
28 offense, who do not serve a term of confinement in a department of  
29 corrections facility, department of children, youth, and families  
30 facility, or a city or county jail facility; and

31 (ii) Persons who are required to register under RCW 9A.44.130.

32 (c) (i) For persons convicted of any offense listed in subsection  
33 (1)(a) of this section or adjudicated guilty of an equivalent  
34 juvenile offense, who are serving or who are to serve a term of  
35 confinement in a department of corrections facility or a department  
36 of children, youth, and families facility, the facility holding the  
37 person shall be responsible for obtaining the biological samples as  
38 part of the intake process. If the facility did not collect the  
39 biological sample during the intake process, then the facility shall  
40 collect the biological sample as soon as is practicable prior to the

1 person's release from confinement. For those persons incarcerated  
2 before June 12, 2008, who have not yet had a biological sample  
3 collected, priority shall be given to those persons who will be  
4 released the soonest.

5 (ii) If the biological sample is not collected prior to the  
6 person's release from confinement, the responsible department of  
7 corrections facility or department of children, youth, and families  
8 facility shall notify the sentencing court within three business days  
9 of the person's release that it has released the person without  
10 collecting the person's biological sample. Within 10 days of  
11 receiving notice of the person's release, the sentencing court shall  
12 schedule a compliance hearing. The responsible department of  
13 corrections facility or department of children, youth, and families  
14 facility shall serve or cause to be served notice to the person of  
15 the compliance hearing and shall file proof of service with the  
16 sentencing court. A representative of the responsible department of  
17 corrections facility or department of children, youth, and families  
18 facility shall attend the compliance hearing and obtain the person's  
19 biological sample at the hearing. The court may, in its discretion,  
20 require the responsible department of corrections facility or  
21 department of children, youth, and families facility to pay  
22 attorneys' fees and court costs associated with scheduling and  
23 attending the compliance hearing.

24 (d) For persons convicted of any offense listed in subsection  
25 (1)(a) of this section or adjudicated guilty of an equivalent  
26 juvenile offense, who will not serve a term of confinement, the court  
27 shall: ~~Order the person to ((report to the local police department or~~  
28 ~~sheriff's office as provided under subsection (5)(b)(i) of this~~  
29 ~~section within a reasonable period of time established by the court~~  
30 ~~in order to provide a biological sample))~~ be administratively booked  
31 at a city or county jail facility for the sole purpose of providing a  
32 biological sample; or if the local police department or sheriff's  
33 office has a protocol for collecting the biological sample in the  
34 courtroom, order the person to immediately provide the biological  
35 sample to the local police department or sheriff's office before  
36 leaving the presence of the court. The court must further inform the  
37 person that refusal to provide a biological sample is a gross  
38 misdemeanor under this section.

39 (e) For persons convicted of any offense listed in subsection  
40 (1)(a) of this section or adjudicated guilty of an equivalent

1 juvenile offense, the court shall create and implement a biological  
2 sample collection protocol. The court shall order the biological  
3 samples at the time of sentencing. The court shall inform the person  
4 that refusal to provide a biological sample is a gross misdemeanor  
5 under this section. If the biological sample is not collected at the  
6 time of sentencing, then the biological sample shall be collected  
7 pursuant to (a) through (d) of this subsection (5), and the court  
8 shall schedule a compliance hearing within 10 days of the sentencing  
9 to ensure that the biological sample has been collected.

10 (6) Any biological sample taken pursuant to RCW 43.43.752 through  
11 43.43.758 may be retained by the forensic laboratory services bureau,  
12 and shall be used solely for the purpose of providing DNA or other  
13 tests for identification analysis and prosecution of a criminal  
14 offense or for the identification of human remains or missing  
15 persons. Nothing in this section prohibits the submission of results  
16 derived from the biological samples to the federal bureau of  
17 investigation combined DNA index system.

18 (7) The forensic laboratory services bureau of the Washington  
19 state patrol is responsible for testing performed on all biological  
20 samples that are collected under this section, to the extent allowed  
21 by funding available for this purpose. Known duplicate samples may be  
22 excluded from testing unless testing is deemed necessary or advisable  
23 by the director.

24 (8) This section applies to:

25 (a) All adults and juveniles to whom this section applied prior  
26 to June 12, 2008;

27 (b) All adults and juveniles to whom this section did not apply  
28 prior to June 12, 2008, who:

29 (i) Are convicted on or after June 12, 2008, of an offense listed  
30 in subsection (1)(a) of this section on the date of conviction; or

31 (ii) Were convicted prior to June 12, 2008, of an offense listed  
32 in subsection (1)(a) of this section and are still incarcerated on or  
33 after June 12, 2008;

34 (c) All adults and juveniles who are required to register under  
35 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,  
36 on, or after June 12, 2008; and

37 (d) All samples submitted under subsections (2) and (3) of this  
38 section.

39 (9) This section creates no rights in a third person. No cause of  
40 action may be brought based upon the noncollection or nonanalysis or

1 the delayed collection or analysis of a biological sample authorized  
2 to be taken under RCW 43.43.752 through 43.43.758.

3 (10) The detention, arrest, or conviction of a person based upon  
4 a database match or database information is not invalidated if it is  
5 determined that the sample was obtained or placed in the database by  
6 mistake, or if the conviction or juvenile adjudication that resulted  
7 in the collection of the biological sample was subsequently vacated  
8 or otherwise altered in any future proceeding including but not  
9 limited to posttrial or postfact-finding motions, appeals, or  
10 collateral attacks. No cause of action may be brought against the  
11 state based upon the analysis of a biological sample authorized to be  
12 taken pursuant to a municipal ordinance if the conviction or  
13 adjudication that resulted in the collection of the biological sample  
14 was subsequently vacated or otherwise altered in any future  
15 proceeding including, but not limited to, posttrial or postfact-  
16 finding motions, appeals, or collateral attacks.

17 (11) A person commits the crime of refusal to provide DNA if the  
18 person willfully refuses to comply with a legal request for a DNA  
19 sample as required under this section. The refusal to provide DNA is  
20 a gross misdemeanor.

21 **Sec. 8.** RCW 9A.04.080 and 2022 c 282 s 4 are each amended to  
22 read as follows:

23 (1) Prosecutions for criminal offenses shall not be commenced  
24 after the periods prescribed in this section.

25 (a) The following offenses may be prosecuted at any time after  
26 their commission:

27 (i) Murder;

28 (ii) Homicide by abuse;

29 (iii) Arson if a death results;

30 (iv) Vehicular homicide;

31 (v) Vehicular assault if a death results;

32 (vi) Hit-and-run injury-accident if a death results (RCW  
33 46.52.020(4));

34 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is  
35 under the age of sixteen;

36 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is  
37 under the age of sixteen;

38 (ix) Rape of a child in the first degree (RCW 9A.44.073);

39 (x) Rape of a child in the second degree (RCW 9A.44.076);

- 1 (xi) Rape of a child in the third degree (RCW 9A.44.079);
- 2 (xii) Sexual misconduct with a minor in the first degree (RCW
- 3 9A.44.093);
- 4 (xiii) Custodial sexual misconduct in the first degree (RCW
- 5 9A.44.160);
- 6 (xiv) Child molestation in the first degree (RCW 9A.44.083);
- 7 (xv) Child molestation in the second degree (RCW 9A.44.086);
- 8 (xvi) Child molestation in the third degree (RCW 9A.44.089); and
- 9 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

10 (b) Except as provided in (a) of this subsection, the following  
11 offenses may not be prosecuted more than twenty years after its  
12 commission:

- 13 (i) Rape in the first degree (RCW 9A.44.040);
- 14 (ii) Rape in the second degree (RCW 9A.44.050); or
- 15 (iii) Indecent liberties (RCW 9A.44.100).

16 (c) The following offenses may not be prosecuted more than ten  
17 years after its commission:

18 (i) Any felony committed by a public officer if the commission is  
19 in connection with the duties of his or her office or constitutes a  
20 breach of his or her public duty or a violation of the oath of  
21 office;

- 22 (ii) Arson if no death results;
- 23 (iii) Rape in the third degree (RCW 9A.44.060);
- 24 (iv) Attempted murder; or
- 25 (v) Trafficking under RCW 9A.40.100.

26 (d) A violation of any offense listed in this subsection (1)(d)  
27 may be prosecuted up to ten years after its commission or, if  
28 committed against a victim under the age of eighteen, up to the  
29 victim's thirtieth birthday, whichever is later:

- 30 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);
- 31 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a
- 32 minor);
- 33 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse
- 34 of a minor); or
- 35 (iv) RCW 9A.64.020 (incest).

36 (e) The following offenses may not be prosecuted more than six  
37 years after its commission or discovery, whichever occurs later:

- 38 (i) Violations of RCW 9A.82.060 or 9A.82.080;
- 39 (ii) Any felony violation of chapter 9A.83 RCW;
- 40 (iii) Any felony violation of chapter 9.35 RCW;

1 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
2 when accomplished by color or aid of deception;

3 (v) Theft from a vulnerable adult under RCW 9A.56.400;

4 (vi) Trafficking in stolen property in the first or second degree  
5 under chapter 9A.82 RCW in which the stolen property is a motor  
6 vehicle or major component part of a motor vehicle as defined in RCW  
7 46.80.010; or

8 (vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

9 (f) The following offenses may not be prosecuted more than five  
10 years after its commission: Any class C felony under chapter 74.09,  
11 82.36, or 82.38 RCW.

12 (g) Bigamy may not be prosecuted more than three years after the  
13 time specified in RCW 9A.64.010.

14 (h) A violation of RCW 9A.56.030 may not be prosecuted more than  
15 three years after the discovery of the offense when the victim is a  
16 tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

17 (i) No other felony may be prosecuted more than three years after  
18 its commission; except that in a prosecution under RCW 9A.44.115, if  
19 the person who was viewed, photographed, or filmed did not realize at  
20 the time that he or she was being viewed, photographed, or filmed,  
21 the prosecution must be commenced within two years of the time the  
22 person who was viewed or in the photograph or film first learns that  
23 he or she was viewed, photographed, or filmed.

24 (j) No gross misdemeanor may be prosecuted more than two years  
25 after its commission.

26 (k) No misdemeanor may be prosecuted more than one year after its  
27 commission.

28 (2) The periods of limitation prescribed in subsection (1) of  
29 this section do not run during any time when the person charged is  
30 not usually and publicly resident within this state.

31 (3) In any prosecution for a sex offense as defined in RCW  
32 9.94A.030, the periods of limitation prescribed in subsection (1) of  
33 this section run from the date of commission or (~~two~~) four years  
34 from the date on which the identity of the suspect is conclusively  
35 established by deoxyribonucleic acid testing or by photograph as  
36 defined in RCW 9.68A.011, whichever is later.

37 (4) If, before the end of a period of limitation prescribed in  
38 subsection (1) of this section, an indictment has been found or a  
39 complaint or an information has been filed, and the indictment,  
40 complaint, or information is set aside, then the period of limitation



1 is extended by a period equal to the length of time from the finding  
2 or filing to the setting aside.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02  
4 RCW to read as follows:

5 A disclosure authorization to a health care provider or health  
6 care facility authorizing disclosure of information to law  
7 enforcement regarding a forensic examination performed for the  
8 purposes of gathering evidence for possible prosecution of a criminal  
9 offense must be valid until the end of all related criminal  
10 proceedings or a later event selected by the provider, facility,  
11 patient, or patient's representative, unless the patient or patient's  
12 representative requests a different expiration date or event for the  
13 disclosure authorization.

14 **Sec. 10.** RCW 9A.44.020 and 2013 c 302 s 7 are each amended to  
15 read as follows:

16 (1) In order to convict a person of any crime defined in this  
17 chapter it shall not be necessary that the testimony of the alleged  
18 victim be corroborated.

19 (2) Evidence of the victim's past sexual behavior including but  
20 not limited to the victim's marital history(~~((7))~~); divorce history(~~((7~~  
21 ~~or~~)); general reputation for promiscuity, nonchastity, or sexual  
22 mores contrary to community standards; or, unless it is related to  
23 the alleged offense, social media account, including any text, image,  
24 video, or picture, which depict sexual content, sexual history,  
25 nudity or partial nudity, intimate sexual activity, communications  
26 about sexual activity, communications about sex, sexual fantasies,  
27 and other information that appeals to a prurient interest is  
28 inadmissible on the issue of credibility and is inadmissible to prove  
29 the victim's consent except as provided in subsection (3) of this  
30 section, but when the perpetrator and the victim have engaged in  
31 sexual intercourse with each other in the past, and when the past  
32 behavior is material to the issue of consent, evidence concerning the  
33 past behavior between the perpetrator and the victim may be  
34 admissible on the issue of consent to the offense.

35 (3) In any prosecution for the crime of rape, trafficking  
36 pursuant to RCW 9A.40.100, or any of the offenses in chapter 9.68A  
37 RCW, or for an attempt to commit, or an assault with an intent to  
38 commit any such crime evidence of the victim's past sexual behavior

1 including but not limited to the victim's marital behavior(~~(~~r~~)~~);  
2 divorce history(~~(~~r~~—~~or~~)~~); general reputation for promiscuity,  
3 nonchastity, or sexual mores contrary to community standards; or,  
4 unless it is related to the alleged offense, social media account,  
5 including any text, image, video, or picture, which depict sexual  
6 content, sexual history, nudity or partial nudity, intimate sexual  
7 activity, communications about sexual activity, communications about  
8 sex, sexual fantasies, and other information that appeals to a  
9 prurient interest is not admissible if offered to attack the  
10 credibility of the victim and is admissible on the issue of consent,  
11 except where prohibited in the underlying criminal offense, only  
12 pursuant to the following procedure:

13 (a) A written pretrial motion shall be made by the defendant to  
14 the court and prosecutor stating that the defense has an offer of  
15 proof of the relevancy of evidence of the past sexual behavior of the  
16 victim proposed to be presented and its relevancy on the issue of the  
17 consent of the victim.

18 (b) The written motion shall be accompanied by an affidavit or  
19 affidavits in which the offer of proof shall be stated.

20 (c) If the court finds that the offer of proof is sufficient, the  
21 court shall order a hearing out of the presence of the jury, if any,  
22 and the hearing shall be closed except to the necessary witnesses,  
23 the defendant, counsel, and those who have a direct interest in the  
24 case or in the work of the court.

25 (d) At the conclusion of the hearing, if the court finds that the  
26 evidence proposed to be offered by the defendant regarding the past  
27 sexual behavior of the victim is relevant to the issue of the  
28 victim's consent; is not inadmissible because its probative value is  
29 substantially outweighed by the probability that its admission will  
30 create a substantial danger of undue prejudice; and that its  
31 exclusion would result in denial of substantial justice to the  
32 defendant; the court shall make an order stating what evidence may be  
33 introduced by the defendant, which order may include the nature of  
34 the questions to be permitted. The defendant may then offer evidence  
35 pursuant to the order of the court.

36 (4) Nothing in this section shall be construed to prohibit cross-  
37 examination of the victim on the issue of past sexual behavior when  
38 the prosecution presents evidence in its case in chief tending to  
39 prove the nature of the victim's past sexual behavior, but the court

1 may require a hearing pursuant to subsection (3) of this section  
2 concerning such evidence.

3 **Sec. 11.** RCW 7.69.030 and 2022 c 229 s 1 are each amended to  
4 read as follows:

5 (1) There shall be a reasonable effort made to ensure that  
6 victims, survivors of victims, and witnesses of crimes have the  
7 following rights, which apply to any adult or juvenile criminal  
8 ~~((court and/or juvenile court))~~ proceeding and any civil commitment  
9 proceeding under chapter 71.09 RCW:

10 ~~((1))~~ (a) With respect to victims of violent or sex crimes, to  
11 receive, at the time of reporting the crime to law enforcement  
12 officials, a written statement of the rights of crime victims as  
13 provided in this chapter. The written statement shall include the  
14 name, address, and telephone number of a county or local crime  
15 victim/witness program, if such a crime victim/witness program exists  
16 in the county;

17 ~~((2))~~ (b) To be informed by local law enforcement agencies or  
18 the prosecuting attorney of the final disposition of the case in  
19 which the victim, survivor, or witness is involved;

20 ~~((3))~~ (c) To be notified by the party who issued the subpoena  
21 that a court proceeding to which they have been subpoenaed will not  
22 occur as scheduled, in order to save the person an unnecessary trip  
23 to court;

24 ~~((4))~~ (d) To receive protection from harm and threats of harm  
25 arising out of cooperation with law enforcement and prosecution  
26 efforts, and to be provided with information as to the level of  
27 protection available;

28 ~~((5))~~ (e) To be informed of the procedure to be followed to  
29 apply for and receive any witness fees to which they are entitled;

30 ~~((6))~~ (f) To be provided, whenever practical, a secure waiting  
31 area during court proceedings that does not require them to be in  
32 close proximity to defendants and families or friends of defendants;

33 ~~((7))~~ (g) To have any stolen or other personal property  
34 expeditiously returned by law enforcement agencies or the superior  
35 court when no longer needed as evidence. When feasible, all such  
36 property, except weapons, currency, contraband, property subject to  
37 evidentiary analysis, and property of which ownership is disputed,  
38 shall be photographed and returned to the owner within ten days of  
39 being taken;

1       (~~(8)~~) (h) To be provided with appropriate employer intercession  
2 services to ensure that employers of victims, survivors of victims,  
3 and witnesses of crime will cooperate with the criminal justice  
4 process or the civil commitment process under chapter 71.09 RCW in  
5 order to minimize an employee's loss of pay and other benefits  
6 resulting from court appearance;

7       (~~(9)~~) (i) To access to immediate medical assistance and not to  
8 be detained for an unreasonable length of time by a law enforcement  
9 agency before having such assistance administered. However, an  
10 employee of the law enforcement agency may, if necessary, accompany  
11 the person to a medical facility to question the person about the  
12 criminal incident if the questioning does not hinder the  
13 administration of medical assistance. Victims of domestic violence,  
14 sexual assault, or stalking, as defined in RCW 49.76.020, shall be  
15 notified of their right to reasonable leave from employment under  
16 chapter 49.76 RCW;

17       (~~(10)~~) (j) With respect to victims of violent and sex crimes,  
18 to have a crime victim advocate from a crime victim/witness program,  
19 or any other support person of the victim's choosing, present at any  
20 prosecutorial or defense interviews with the victim, and at any  
21 judicial proceedings related to criminal acts committed against the  
22 victim. This subsection applies if practical and if the presence of  
23 the crime victim advocate or support person does not cause any  
24 unnecessary delay in the investigation or prosecution of the case.  
25 The role of the crime victim advocate is to provide emotional support  
26 to the crime victim;

27       (~~(11)~~) (k) With respect to victims and survivors of victims, to  
28 be physically present in court during trial, or if subpoenaed to  
29 testify, to be scheduled as early as practical in the proceedings in  
30 order to be physically present during trial after testifying and not  
31 to be excluded solely because they have testified;

32       (~~(12)~~) (l) With respect to victims and survivors of victims in  
33 any felony case (~~(e)~~), any case involving domestic violence, or any  
34 final determination under chapter 71.09 RCW, to be informed by the  
35 prosecuting attorney of the date, time, and place of the trial and of  
36 the sentencing hearing or disposition hearing upon request by a  
37 victim or survivor;

38       (~~(13)~~) (m) To submit a victim impact statement or report to the  
39 court, with the assistance of the prosecuting attorney if requested,  
40 which shall be included in all presentence reports and permanently

1 included in the files and records accompanying the offender committed  
2 to the custody of a state agency or institution;

3 ~~((14))~~ (n) With respect to victims and survivors of victims in  
4 any felony case or any case involving domestic violence, to present a  
5 statement, personally or by representation, at the sentencing  
6 hearing; and

7 ~~((15))~~ (o) With respect to victims and survivors of victims, to  
8 entry of an order of restitution by the court in all felony cases,  
9 even when the offender is sentenced to confinement, unless  
10 extraordinary circumstances exist which make restitution  
11 inappropriate in the court's judgment.

12 (2) If a victim, survivor of a victim, or witness of a crime is  
13 denied a right under this section, the person may seek an order  
14 directing compliance by the relevant party or parties by filing a  
15 petition in the superior court in the county in which the crime  
16 occurred and providing notice of the petition to the relevant party  
17 or parties. Compliance with the right is the sole available remedy.  
18 The court shall expedite consideration of a petition filed under this  
19 subsection.

20 NEW SECTION. Sec. 12. Section 4 of this act takes effect July  
21 1, 2024.

22 NEW SECTION. Sec. 13. If specific funding for the purposes of  
23 this act, referencing this act by bill or chapter number, is not  
24 provided by June 30, 2023, in the omnibus appropriations act, this  
25 act is null and void.

Passed by the House April 13, 2023.  
Passed by the Senate April 11, 2023.  
Approved by the Governor May 1, 2023.  
Filed in Office of Secretary of State May 2, 2023.

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