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**SECOND SUBSTITUTE HOUSE BILL 1445**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Hansen, Simmons, Reed, Thai, Pollet, and Macri)

1 AN ACT Relating to strengthening and clarifying the authority of  
2 the attorney general to address law enforcement and local corrections  
3 agency misconduct through investigations and legal actions; adding  
4 new sections to chapter 43.10 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The state of Washington and its  
7 subdivisions undertake to protect the safety of individuals and to  
8 preserve public peace by employing peace officers who are entrusted  
9 with the power to arrest, detain, and use force against individuals  
10 suspected of violating criminal statutes, and local corrections  
11 officers who are responsible for the custody, safety, and security of  
12 incarcerated individuals. The legislature recognizes that abuses of  
13 this power, such as officer misconduct in using excessive force;  
14 unlawful stops, searches, or arrests; discriminatory practices that  
15 violate the rights of people in Washington; and the provision of  
16 substandard conditions of confinement and inadequate medical care to  
17 detainees and prisoners, harm public safety, hinder effectiveness,  
18 and decrease trust in law enforcement and corrections agencies. It is  
19 the intent of the legislature to clarify existing authority and  
20 authorize the attorney general's office to investigate, and if  
21 necessary, bring suit against law enforcement agencies and local

1 corrections agencies to compel needed reforms where there are  
2 violations of constitutional and civil rights, in order to promote  
3 effective and constitutional policing, detention, and incarceration  
4 practices across the state, provide significant, systemic relief and  
5 transparency, increase community confidence in law enforcement and  
6 corrections agencies, and improve officer and agency accountability  
7 with respect to policing, detention, and incarceration practices.  
8 This state level authority is not intended to address isolated acts  
9 of misconduct or to hold individual officers liable for misconduct.  
10 This state authority is necessary to promote a consistent level of  
11 quality policing for all Washingtonians. This act does not preempt,  
12 limit, diminish, or otherwise affect any other cause of action or  
13 appropriate remedy authorized by state or federal law.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply  
15 throughout sections 1 and 3 of this act unless the context clearly  
16 requires otherwise.

17 (1) "Law enforcement agency" includes any "general authority  
18 Washington law enforcement agency" and any "limited authority  
19 Washington law enforcement agency" of any county, city, or town as  
20 those terms are defined in RCW 10.93.020 and any political  
21 subdivision of the state.

22 (2) "Local corrections agency" means any county, city, or local  
23 agency providing or otherwise responsible for the custody, safety,  
24 and security of adults or juveniles incarcerated in correctional,  
25 jail, or detention facilities.

26 (3) "Local corrections officer" means any employee, whether part-  
27 time or full-time, of a county, city, or local jail, correctional, or  
28 detention facility who is responsible for the custody, safety, and  
29 security of adult or juvenile persons confined in the facility.

30 (4) "Peace officer" includes any "general authority Washington  
31 peace officer," "limited authority Washington peace officer," and  
32 "specially commissioned Washington peace officer" of any county,  
33 city, or town as those terms are defined in RCW 10.93.020.

34 NEW SECTION. **Sec. 3.** (1) As a matter of state interest and  
35 public concern under RCW 43.10.030(1), the attorney general may  
36 investigate and bring an action against a law enforcement agency or  
37 local corrections agency, as defined in section 2 of this act, for a  
38 violation of the Washington state Constitution or state law,

1 including where insufficient accountability systems, training, and  
2 policies at the agency lead to such violations. In the discretion of  
3 the court, the attorney general may recover the costs of the action  
4 including reasonable attorneys' fees if the attorney general prevails  
5 in the action.

6 (2) The attorney general's power under this section includes the  
7 authority to:

8 (a) Investigate violations under subsection (1) of this section  
9 on its own initiative or in response to investigations or reports  
10 from independent oversight bodies;

11 (b) Issue written civil investigative demands for documents and  
12 oral testimony, and answers to written interrogatories; and

13 (c) Institute civil actions in the courts for injunctive or  
14 declaratory relief, damages, costs, and reasonable attorneys' fees.

15 (3) Prior to the initiation of any formal investigative steps,  
16 the attorney general shall confer with the United States department  
17 of justice to ensure that law enforcement resources are being used  
18 efficiently and that there are no conflicts with any independent  
19 investigations by the United States department of justice. In any  
20 investigation or action brought under this section against a law  
21 enforcement agency or local corrections agency that is subject to an  
22 investigation by the United States department of justice, the  
23 attorney general shall not seek any relief or remedies that are in  
24 conflict with the federal action.

25 (4) If an investigation is initiated, the attorney general shall  
26 confer with the office of independent investigations to ensure that  
27 any investigation under this section will not interfere with or  
28 impede an ongoing investigation being conducted by the office of  
29 independent investigations.

30 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act must be  
31 liberally construed so that their beneficial and remedial purposes  
32 may be served. If any provision of this act conflicts with any other  
33 statute, ordinance, rule, or regulation of any public employer, the  
34 provisions of this chapter control.

35 NEW SECTION. **Sec. 5.** By September 1, 2024, the attorney general  
36 shall develop and publish model policies for law enforcement agency  
37 accountability systems, specifying model practices for receiving  
38 complaints of serious misconduct, conducting investigations of

1 serious misconduct, imposing discipline for serious misconduct, and  
2 addressing disciplinary appeals. The model policies should promote  
3 transparent and effective accountability systems that: Mete out fair,  
4 impartial, and swift discipline commensurate to wrongdoing; reduce  
5 officer misconduct; reduce barriers to accountability; and uphold the  
6 civil and constitutional rights of members of the public. The model  
7 policies shall be consistent with standards adopted in other  
8 published model guidance drafted by the office of the attorney  
9 general at the specific request of the Washington state legislature.  
10 In developing these policies, the attorney general shall consult with  
11 the criminal justice training commission, the office of independent  
12 investigations, law enforcement agencies, police unions, independent  
13 oversight bodies, city attorneys and county prosecutors, people  
14 impacted by police misconduct, experts, and police accountability  
15 advocates.

16 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each  
17 added to chapter 43.10 RCW.

18 NEW SECTION. **Sec. 7.** If specific funding for the purposes of  
19 this act, referencing this act by bill or chapter number, is not  
20 provided by June 30, 2023, in the omnibus appropriations act, this  
21 act is null and void.

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