
SECOND SUBSTITUTE HOUSE BILL 1028

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 ((cases)) 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.

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