
SUBSTITUTE SENATE BILL 6189

State of Washington

68th Legislature

2024 Regular Session

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

1 AN ACT Relating to transparency, public safety, and independent
2 oversight of the city, county, and regional jail system in Washington
3 state; amending RCW 70.48.510; and adding a new chapter to Title 43
4 RCW.

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

6 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. The legislature
7 finds that independent oversight of correctional systems encourages
8 public trust, supports safe and humane conditions for correctional
9 employees and incarcerated people, enhances public safety, and
10 promotes reform towards more rehabilitative and therapeutic
11 correctional systems.

12 The legislature established the joint legislative task force on
13 jail standards to study and make recommendations regarding jail
14 conditions and oversight. This act reflects many of the findings and
15 recommendations of that task force, whose members represented the
16 senate and house of representatives, prosecutors, defense attorneys,
17 law enforcement, courts, jail administrators, counties and cities,
18 medical and mental health services providers, persons with lived
19 experience, and others interested in the operation of jails.

20 The legislature further finds that the jail system has a
21 significant impact on the people of Washington. In 2022, more than

1 130,000 people were booked into Washington jails and that, on any
2 given day in 2022, more than 8,000 people were detained in Washington
3 jails.

4 Until 1987, Washington jails were overseen by the Washington
5 corrections standards board. This body was eliminated over the
6 opposition of stakeholders including jail administrators, advocates,
7 and the department of corrections.

8 The legislature further finds that an increasing number of states
9 are establishing independent oversight of their correctional systems.
10 At least 29 states have established independent correctional
11 oversight to promote transparency and improve their correctional
12 systems. Washington has already established independent oversight of
13 juvenile detention facilities and state prisons.

14 The legislature declares that oversight and transparency are
15 integral components of Washington state government, and data
16 collection is one essential tool to allow the public, correctional
17 administrators and staff, and policymakers to analyze existing
18 practices. Independent oversight and data-driven decision-making help
19 identify and solve problems and make the government accountable to
20 the people of Washington state.

21 Therefore, the legislature resolves to establish independent
22 oversight of Washington's jail system to ensure transparency, support
23 safe and humane conditions for jail employees and incarcerated
24 individuals, promote reform towards a more rehabilitative and
25 therapeutic jail system, reduce jails' exposure to litigation, and
26 promote cost savings.

27 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
28 section apply throughout this chapter unless the context clearly
29 requires otherwise.

30 (1) "Board" means the jail oversight board.

31 (2) "Director" means the director of the jail oversight board.

32 (3) "Health care information" has the same meaning as in RCW
33 70.02.010.

34 (4) "Health care provider" has the same meaning as in RCW
35 70.02.010.

36 (5) "Incarcerated individual" means a person committed to the
37 custody of a jail, including but not limited to persons residing in a
38 jail and persons released from such facility on furlough, work
39 release, or community custody, and persons received from another

1 state, state agency, county, federally recognized tribe, federal
2 jurisdiction, or other entity or jurisdiction.

3 (6) "Jail" means any holding, detention, special detention, or
4 correctional facility as defined in RCW 70.48.020.

5 (7) "Jail administrator" means a city or county department of
6 corrections or chief law enforcement officer responsible for the
7 operation of a jail pursuant to RCW 70.48.090.

8 NEW SECTION. **Sec. 3.** CREATION OF BOARD—PURPOSE. Subject to the
9 availability of funds appropriated for this specific purpose, there
10 is hereby created the jail oversight board within the office of the
11 governor to ensure transparency and independent oversight of
12 Washington's jail system, support safe and humane conditions for jail
13 employees and incarcerated individuals, and promote reform towards a
14 more rehabilitative and therapeutic jail system.

15 NEW SECTION. **Sec. 4.** APPOINTMENT AND REMOVAL OF BOARD MEMBERS.

16 (1) The board shall be composed of seven members as follows:

17 (a) One person who is a current or former jail administrator;

18 (b) One person who is a current or former medical provider
19 familiar with the needs of patients who have experienced
20 incarceration and has not been employed by a state or county
21 correctional or law enforcement agency in the last 10 years;

22 (c) One person who is a current or former behavioral health
23 service provider familiar with the needs of patients who have
24 experienced incarceration and has not been employed by a state or
25 county correctional or law enforcement agency in the last 10 years;

26 (d) Two persons with lived experience being incarcerated in a
27 Washington jail;

28 (e) One person who is a licensed attorney with a background in
29 investigating or advocating matters related to enhancing Washington
30 jail practices or conditions and has not been employed by a state or
31 county correctional or law enforcement agency in the last 10 years;
32 and

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

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

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

4 (3) Members shall be eligible for reappointment.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (2) The board or its staff shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (5) For the purposes of this section:

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

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

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

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

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