

2SHB 1579 - S COMM AMD

By Committee on Ways & Means

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 43.10.230 and 1981 c 335 s 1 are each amended to
4 read as follows:

5 The purpose of RCW 43.10.232 is to grant authority to the
6 attorney general concurrent with the county prosecuting attorneys to
7 investigate and prosecute crimes, including incidents of use of
8 deadly force by an involved officer as those terms are defined in RCW
9 43.102.010. The purpose of RCW ((43.10.234)) 10.01.190 is to
10 ((insure)) ensure access by the attorney general to the procedural
11 powers of the various prosecuting attorneys in exercising criminal
12 prosecutorial authority granted in RCW 43.10.232 or otherwise granted
13 by the legislature.

14 **Sec. 2.** RCW 43.10.232 and 1986 c 257 s 16 are each amended to
15 read as follows:

16 (1) (a) The attorney general shall have concurrent authority and
17 power with the prosecuting attorneys to investigate crimes and
18 initiate and conduct prosecutions upon the request of or with the
19 concurrence of any of the following:

20 ((~~(a)~~)) (i) The county prosecuting attorney of the jurisdiction
21 in which the offense has occurred;

22 ((~~(b)~~)) (ii) The governor of the state of Washington; or

23 ((~~(c) A majority of the committee charged with the oversight of~~
24 ~~the organized crime intelligence unit~~)) (iii) As provided in
25 subsection (2) of this section.

26 ((~~(2)~~)) (b) Such request or concurrence shall be communicated in
27 writing to the attorney general.

28 ((~~(3)~~)) (c) Prior to any prosecution by the attorney general
29 under (a) of this ((~~section~~)) subsection, the attorney general and
30 the county in which the offense occurred shall reach an agreement

1 regarding the payment of all costs, including expert witness fees,
2 and defense attorneys' fees associated with any such prosecution.

3 (2) (a) The attorney general's office of independent prosecutions
4 shall have concurrent authority and power with the prosecuting
5 attorneys to review investigations and initiate and conduct
6 prosecutions of applicable use of force cases, as defined in this
7 chapter. "Prosecution" includes appeals and requests for
8 postconviction relief.

9 (b) In any prosecution pursuant to this subsection, the attorney
10 general's office of independent prosecutions may prosecute related
11 offenses and defendants. Related offenses and defendants for purposes
12 of this subsection are those offenses and defendants that may be
13 joined as provided by law or by the criminal rules for the superior
14 courts of the state of Washington. Related offenses also include any
15 criminal activity related to, or discovered in the course of, the
16 investigation of the case under the jurisdiction of the incident that
17 has a relationship to the investigation.

18 (c) Nothing in this subsection affects the authority of the
19 prosecuting attorney to conduct prosecutions of crimes committed by
20 an individual who is the subject of the use of force action by the
21 involved officer.

22 (d) The authority of the attorney general's office of independent
23 prosecutions under this subsection applies to any applicable use of
24 force case as defined in this chapter.

25 (e) The attorney general's office shall be responsible for its
26 expert witness fees and other costs of prosecution associated with
27 prosecutions it undertakes pursuant to this subsection. The attorney
28 general's office shall not be responsible for defense costs,
29 including defense attorneys' fees, defense expert witness fees, or
30 any other cost related to the defense in a criminal prosecution
31 brought pursuant to this subsection. Reimbursement for costs are
32 subject to the provisions of RCW 9A.16.046. The county in which the
33 action is filed shall be responsible for court administration costs
34 and public defense costs if the defendant so qualifies.

35 **Sec. 3.** RCW 43.10.234 and 1981 c 335 s 3 are each amended to
36 read as follows:

37 (1) If both a prosecuting attorney and the attorney general file
38 an information or indictment charging a defendant with substantially

1 the same offense(s), the court shall, upon motion of either the
2 prosecuting attorney or the attorney general:

3 ~~((1))~~ (a) Determine whose prosecution of the case will best
4 promote the interests of justice and enter an order designating that
5 person as the prosecuting authority in the case; and

6 ~~((2))~~ (b) Enter an order dismissing the information or
7 indictment filed by the person who was not designated the prosecuting
8 authority.

9 (2) For purposes of designating the prosecuting authority where
10 information or an indictment has been filed by both the office of the
11 attorney general pursuant to RCW 43.10.232(2) and the prosecuting
12 attorney pursuant to RCW 36.27.020, the court shall, in accordance
13 with section 4 of this act, prioritize the public's interest in
14 ensuring a fair and impartial prosecution and trial that is free from
15 bias and even the appearance of bias, prejudice, or conflict of
16 interest. In any judicial proceeding under this subsection, in order
17 to be designated the prosecuting authority, the county prosecuting
18 attorney must overcome a presumption that the county prosecuting
19 attorney has an inherent conflict of interest in any applicable use
20 of force case. Similarly, in any judicial proceeding under this
21 subsection, the attorney general must overcome a presumption that the
22 attorney general has an inherent conflict of interest in any
23 applicable use of force case in which an investigation of the use of
24 deadly force involved any general authority peace officer at a state
25 agency, an employee of the department of corrections, an employee of
26 a limited authority law enforcement agency, or an employee of a
27 police department at a public institution of higher education.

28 NEW SECTION. Sec. 4. FINDINGS. The legislature finds that the
29 Washington state Constitution provides that the legislature shall
30 prescribe the duties of both the attorney general and the county
31 prosecuting attorneys. The legislature finds that the close working
32 relationships and intertwined duties between local law enforcement
33 and local prosecutors can give the appearance of bias in review of
34 incidents of use of deadly force by Washington peace officers and
35 corrections officers.

36 In order to increase public confidence in the fairness of review
37 of investigations of incidents of use of deadly force by Washington
38 peace officers and corrections officers, and to ensure independence
39 and transparency in such reviews, the legislature finds it necessary

1 to create an office of independent prosecutions within the attorney
2 general's office. The legislature further finds that prosecutions by
3 the independent prosecutor will best promote the interests of
4 justice.

5 NEW SECTION. **Sec. 5.** CREATION. (1) Subject to the availability
6 of amounts appropriated for this specific purpose, the office of
7 independent prosecutions is hereby established within the office of
8 the attorney general for the purpose of reviewing investigations of
9 applicable use of force cases. The office is hereby authorized to
10 review such investigations, decline criminal charges when
11 appropriate, file criminal charges when appropriate, and prosecute
12 such cases to the conclusion of the case, including appeals and
13 collateral attacks.

14 (2) The office shall be a separate division within the attorney
15 general's office. The office shall maintain policies and procedures
16 to ensure that personnel outside the office of independent
17 prosecutions with an actual and perceived conflict, including other
18 employees and divisions of the attorney general's office, shall be
19 screened from the investigation and prosecution of any case.

20 (3) The office shall have authority to adopt rules for the
21 maintaining of independent decision making and review of
22 investigations of applicable use of force cases.

23 NEW SECTION. **Sec. 6.** AUTHORITY OF ATTORNEY GENERAL REGARDING
24 OFFICE OF INDEPENDENT PROSECUTIONS. (1) The attorney general shall
25 determine the compensation and appoint a licensed attorney as
26 independent counsel to lead the office of independent prosecutions.
27 The independent counsel shall have final decision-making authority
28 for:

29 (a) Hiring and terminating personnel within the office of
30 independent prosecutions;

31 (b) Declining the filing of criminal charges after thorough
32 review of an applicable use of force case;

33 (c) Filing criminal charges after thorough review of an
34 applicable use of force case; and

35 (d) All aspects of the litigation of the office of independent
36 prosecutions.

37 (2) The attorney general may remove the independent counsel prior
38 to the expiration of the independent counsel's term for misconduct or

1 inability to perform duties. The attorney general shall otherwise be
2 screened from the work of the office of independent prosecutions. The
3 attorney general shall provide no input and have no decision-making
4 authority over whether criminal charges are filed after review of an
5 investigation of an applicable use of force case.

6 (3) The office of independent prosecutions shall be subject to
7 the policies and procedures applicable to employees of the attorney
8 general's office except where those policies and procedures conflict
9 with the duties of the office of independent prosecutions.

10 NEW SECTION. **Sec. 7.** OFFICE OF INDEPENDENT PROSECUTIONS

11 ADVISORY BOARD. (1)(a) There is created the office of independent
12 prosecutions advisory board. The advisory board shall consist of the
13 following members, appointed by the attorney general:

14 (i) Three members of the general public representing the
15 community who are not current or former law enforcement, with
16 preference given to individuals representing diverse communities;

17 (ii) Two members of the general public representing families
18 affected by an incident of the nature under the jurisdiction of the
19 office of independent prosecutions, who are not current or former law
20 enforcement;

21 (iii) One member representing a federally recognized tribe in
22 Washington, who is not current or former law enforcement;

23 (iv) One defense attorney representative;

24 (v) Two prosecuting attorney representatives; and

25 (vi) Two active or retired law enforcement personnel.

26 (b) The attorney general, when making appointments to the
27 advisory board, shall make appointments that reflect the cultural
28 diversity of the state of Washington.

29 (2) The attorney general shall select the independent counsel
30 from a list of three candidates recommended by the advisory board
31 unless the attorney general declines to select any of the candidates
32 provided. If the attorney general declines to select a candidate
33 proposed by the advisory board, the attorney general may request the
34 advisory board to provide additional qualified nominees for
35 consideration or may offer an alternative candidate who may be
36 appointed following approval by a majority of the advisory board.

37 (3) In consultation with the independent counsel, the advisory
38 board shall submit a report with related recommendations to the
39 legislature and the governor by November 1, 2026, concerning the

1 cases that have been reviewed by the independent counsel under this
2 chapter, any cases that have come before a judge under RCW 43.10.234,
3 the disposition and outcomes of such cases, and whether there are any
4 changes needed in state law to increase public confidence in the
5 handling of cases under this chapter. The advisory board must seek
6 input from the public in its preparation of this report.

7 NEW SECTION. **Sec. 8.** INDEPENDENT COUNSEL. (1) The independent
8 counsel must meet the following minimum criteria for consideration of
9 appointment by the attorney general:

10 (a) Licensure to practice law in the state of Washington;

11 (b) No documented criminal or disciplinary history involving
12 dishonesty, discrimination against persons of color or marginalized
13 communities, or abuse of power; and

14 (c) Submission to a background check, including an assessment of
15 criminal history and research of social media and affiliations to
16 check for racial bias and conflicts of interest, prior to appointment
17 by the attorney general.

18 (2) Should the independent counsel resign, become incapacitated,
19 or be removed as set forth in this chapter, the attorney general
20 shall appoint an interim independent counsel within 24 hours, which
21 person shall serve as independent counsel until such time as a new
22 independent counsel can be appointed.

23 (3) The independent counsel shall hold the office for a term of
24 three years and continue to hold office until reappointed or until
25 his or her successor is appointed.

26 NEW SECTION. **Sec. 9.** POWERS AND DUTIES OF INDEPENDENT COUNSEL.

27 (1) The independent counsel shall:

28 (a) Oversee the duties and functions of the office of independent
29 prosecutions pursuant to this chapter;

30 (b) Hire or contract with attorneys, investigators, advocates for
31 those subjected to deadly force and their surviving family members,
32 and other personnel as necessary to perform investigations and
33 prosecutions conducted by the office, and other duties as required
34 under this chapter;

35 (c) Plan and provide trainings for office personnel, including
36 hired or contracted attorneys and investigators, that promote
37 recognition of and respect for the diverse races, ethnicities, and
38 cultures of the state;

1 (d) Enter into contracts and memoranda of understanding as
2 necessary to implement the responsibilities of the office under this
3 chapter;

4 (e) Ensure that persons subjected to use of deadly force by an
5 involved officer, or their survivors, are kept apprised of the status
6 of the review of the investigation, any charging decisions, all court
7 hearings, and the status of any prosecution; and ensure that all
8 victims of charged crimes, or their surviving family members, are
9 afforded the rights set forth in RCW 7.69.030;

10 (f) Perform the duties and exercise the powers set forth in this
11 chapter, as well as any additional duties and powers that may be
12 prescribed; and

13 (g) Establish policies and procedures to ensure that personnel
14 with actual and apparent conflicts are screened from the review of
15 the investigation for criminal charges.

16 (2) The independent counsel or the independent counsel's
17 designees within the office shall make decisions pertaining to the
18 declining or filing of criminal charges independent of the attorney
19 general.

20 NEW SECTION. **Sec. 10.** PERSONNEL. (1) The independent counsel
21 may employ, or enter into contracts with, persons or entities as they
22 determine necessary for the proper discharge of the duties prescribed
23 to the independent counsel in this chapter.

24 (2) The independent counsel may employ assistant attorneys
25 general, or appoint and contract with special assistant attorneys
26 general, to perform or review investigations and prosecute charged
27 cases.

28 (3) The independent counsel may employ or contract for other
29 necessary personnel to perform the duties prescribed in this chapter
30 to include, but not limited to:

31 (a) Forensic services and crime scene investigators;

32 (b) Liaisons for community, family, and relations with tribal
33 nations and members;

34 (c) Analysts, including analysts to conduct evaluations on use of
35 force;

36 (d) Mental health experts;

37 (e) Bilingual staff, translators, or interpreters;

38 (f) Other experts as needed; and

1 (g) All staffing and other needs for the office of independent
2 prosecutions.

3 (4) (a) The independent counsel shall ensure training is provided
4 to staff and that there is a regular schedule for additional training
5 during the course of employment.

6 (b) The independent counsel shall ensure that the independent
7 counsel and the independent counsel's staff, including any contracted
8 personnel, engage in trainings that include the following topics:

9 (i) History of racism in policing, including tribal sovereignty
10 and history of Native Americans within the justice system;

11 (ii) Implicit and explicit bias;

12 (iii) Intercultural competency;

13 (iv) Use of a racial equity lens in conducting the work of the
14 office;

15 (v) Antiracism training;

16 (vi) Undoing institutional racism;

17 (vii) Criminal procedure, to include criminal discovery rules and
18 the prosecution's obligations under CrR 4.7 and *Brady v. Maryland*,
19 373 U.S. 83 (1963), and its progeny; and

20 (viii) Other relevant trainings as needed.

21 NEW SECTION. **Sec. 11.** APPOINTMENT OF ASSISTANT ATTORNEYS
22 GENERAL—SPECIAL AND TEMPORARY. The independent counsel may appoint
23 one or more assistant attorneys general and special assistant
24 attorneys general who shall have the same powers as prosecuting
25 attorneys to perform investigations and prosecutions conducted by the
26 office of independent prosecutions. Each appointment shall be in
27 writing, signed by the independent counsel.

28 NEW SECTION. **Sec. 12.** EMPLOYMENT OF LEGAL INTERNS.
29 Notwithstanding any other provision of this chapter, nothing in this
30 chapter shall prevent law students from working as volunteer or paid
31 legal interns or law clerks for the office of independent
32 prosecutions, or as otherwise authorized by statute or court rule.

33 NEW SECTION. **Sec. 13.** PUBLIC RECORDS ACT. (1) (a) The case
34 records of the office of independent prosecutions, and all
35 communications pertaining to same, are confidential and exempt from
36 disclosure under chapter 42.56 RCW until such time as:

1 (i) A decision has been made to decline criminal charges in a
2 particular case;

3 (ii) A charged case is dismissed;

4 (iii) A judge or jury returns a verdict of "not guilty"; or

5 (iv) Entry of judgment and sentence following a guilty plea or
6 verdict of guilty.

7 (b) After the occurrence of any of the events in (a) of this
8 subsection, the case records and related communications of the office
9 are subject to the provisions of chapter 42.56 RCW.

10 (2) If the independent counsel determines that a criminal charge
11 is not warranted in a case, the independent counsel shall issue a
12 public report that includes the results of the investigation and an
13 explanation of the reasons for the decision, and post the report on
14 the office of independent prosecutions' website.

15 NEW SECTION. **Sec. 14.** LIABILITY. No action or other proceeding
16 may be instituted against the independent counsel or the independent
17 counsel's employees or contractors, or a person exercising powers or
18 performing duties at the direction of the office of independent
19 prosecutions, for any act done in good faith in the execution or
20 intended execution of the person's duty or for any alleged neglect or
21 default in the execution in good faith of the person's duty.

22 NEW SECTION. **Sec. 15.** DEFINITIONS. For purposes of this
23 chapter, "applicable use of force case" means a case arising from
24 investigations conducted by the office of independent investigations
25 pursuant to RCW 43.102.030(1) (a) and (b).

26 **Sec. 16.** RCW 36.27.020 and 2016 c 173 s 7 are each amended to
27 read as follows:

28 The prosecuting attorney shall:

29 (1) Be legal adviser of the legislative authority, giving it his
30 or her written opinion when required by the legislative authority or
31 the chairperson thereof touching any subject which the legislative
32 authority may be called or required to act upon relating to the
33 management of county affairs;

34 (2) Be legal adviser to all county and precinct officers and
35 school directors in all matters relating to their official business,
36 and when required draw up all instruments of an official nature for
37 the use of said officers;

1 (3) Appear for and represent the state, county, and all school
2 districts subject to the supervisory control and direction of the
3 attorney general in all criminal and civil proceedings in which the
4 state or the county or any school district in the county may be a
5 party;

6 (4) (~~Prosecute~~) Subject to subsection (13) of this section,
7 prosecute all criminal and civil actions in which the state or the
8 county may be a party, defend all suits brought against the state or
9 the county, and prosecute actions upon forfeited recognizances and
10 bonds and actions for the recovery of debts, fines, penalties, and
11 forfeitures accruing to the state or the county;

12 (5) Attend and appear before and give advice to the grand jury
13 when cases are presented to it for consideration and draw all
14 indictments when required by the grand jury;

15 (6) Institute and prosecute proceedings before magistrates for
16 the arrest of persons charged with or reasonably suspected of
17 felonies when the prosecuting attorney has information that any such
18 offense has been committed and the prosecuting attorney shall for
19 that purpose attend when required by them if the prosecuting attorney
20 is not then in attendance upon the superior court;

21 (7) Carefully tax all cost bills in criminal cases and take care
22 that no useless witness fees are taxed as part of the costs and that
23 the officers authorized to execute process tax no other or greater
24 fees than the fees allowed by law;

25 (8) Receive all cost bills in criminal cases before district
26 judges at the trial of which the prosecuting attorney was not
27 present, before they are lodged with the legislative authority for
28 payment, whereupon the prosecuting attorney may retax the same and
29 the prosecuting attorney must do so if the legislative authority
30 deems any bill exorbitant or improperly taxed;

31 (9) Present all violations of the election laws which may come to
32 the prosecuting attorney's knowledge to the special consideration of
33 the proper jury;

34 (10) Examine once in each year the official bonds of all county
35 and precinct officers and report to the legislative authority any
36 defect in the bonds of any such officer;

37 (11) Seek to reform and improve the administration of criminal
38 justice and stimulate efforts to remedy inadequacies or injustice in
39 substantive or procedural law;

1 (12) Participate in the statewide sexual assault kit tracking
2 system established in RCW 43.43.545 for the purpose of tracking the
3 status of all sexual assault kits connected to criminal
4 investigations and prosecutions within the county. Prosecuting
5 attorneys shall begin full participation in the system according to
6 the implementation schedule established by the Washington state
7 patrol;

8 (13)(a) In any case involving potential prosecution of an
9 applicable use of force case, the prosecuting attorney shall
10 determine if recusal is necessary under the ethical rules applicable
11 to all lawyers or to preserve public confidence. In making this
12 determination, it is improper for the prosecuting attorney to make a
13 determination as to whether criminal charges shall be filed or
14 prosecuted if any of the following exist:

15 (i) The prosecuting attorney has a relationship with the involved
16 officer or the involved officer's employing agency, either personally
17 or professionally, such that the prosecuting attorney's decision or
18 pursuit of charges may be affected;

19 (ii) The prosecuting attorney has a duty to represent the
20 involved officer's employing agency in any civil action related to or
21 arising from the incident under consideration or criminally charged
22 and the prosecuting attorney's decision or pursuit of charges arising
23 from the police officer's use of deadly force may be affected by the
24 duty to defend; or

25 (iii) There is a risk that the prosecuting attorney's ability to
26 consider, recommend, or carry out an appropriate course of action
27 will be limited as a result of the prosecuting attorney's other
28 responsibilities or interests.

29 (b) If the prosecuting attorney finds recusal is necessary under
30 the ethics rules or to preserve public confidence, the prosecuting
31 attorney must transfer the case to the office of independent
32 prosecutions in the attorney general's office within 30 days of
33 receiving the case from the office of independent investigations
34 under chapter 43.102 RCW.

35 (c) For the purposes of this subsection, "applicable use of force
36 case" means a case arising from investigations conducted by the
37 office of independent investigations pursuant to RCW 43.102.030(1)

38 (a) and (b).

1 **Sec. 17.** RCW 36.27.030 and 2009 c 549 s 4046 are each amended to
2 read as follows:

3 ~~((When))~~ (1) Except as provided in subsection (3) of this
4 section, when from illness or other cause the prosecuting attorney is
5 temporarily unable to perform his or her duties, the court or judge
6 may appoint some qualified person to discharge the duties of such
7 officer in court until the disability is removed.

8 ~~((When))~~ (2) Except as provided in subsection (3) of this
9 section, when any prosecuting attorney fails, from sickness or other
10 cause, to attend a session of the superior court of his or her
11 county, or is unable to perform his or her duties at such session,
12 the court or judge may appoint some qualified person to discharge the
13 duties of such session, and the appointee shall receive a
14 compensation to be fixed by the court, to be deducted from the stated
15 salary of the prosecuting attorney, not exceeding, however, one-
16 fourth of the quarterly salary of the prosecuting attorney: PROVIDED,
17 That in counties wherein there is no person qualified for the
18 position of prosecuting attorney, or wherein no qualified person will
19 consent to perform the duties of that office, the judge of the
20 superior court shall appoint some suitable person, a duly admitted
21 and practicing attorney-at-law and resident of the state to perform
22 the duties of prosecuting attorney for such county, and he or she
23 shall receive such reasonable compensation for his or her services as
24 shall be fixed and ordered by the court, to be paid by the county for
25 which the services are performed.

26 (3) In any applicable use of force case, where the prosecuting
27 attorney has a conflict of interest and has not transferred the case
28 to the office of independent prosecutions of the office of the
29 attorney general, the court shall order the office of independent
30 prosecutions of the office of the attorney general to discharge the
31 responsibilities of the prosecuting attorney. For the purposes of
32 this subsection, "applicable use of force case" means a case arising
33 from investigations conducted by the office of independent
34 investigations pursuant to RCW 43.102.030(1) (a) and (b).

35 NEW SECTION. **Sec. 18.** A new section is added to chapter 36.27
36 RCW to read as follows:

37 If the prosecuting attorney makes a determination not to file
38 criminal charges in an applicable use of force case, the prosecuting
39 attorney must refer the case and all investigative materials

1 concerning the case to the office of independent prosecutions in the
2 office of the attorney general within 30 days of the decision to not
3 file criminal charges. For the purposes of this section, "applicable
4 use of force case" means a case arising from investigations conducted
5 by the office of independent investigations pursuant to RCW
6 43.102.030(1) (a) and (b).

7 **Sec. 19.** RCW 43.102.080 and 2021 c 318 s 308 are each amended to
8 read as follows:

9 (1) The office has jurisdiction over, and is authorized to
10 conduct investigations of, all cases and incidents as established
11 within this section.

12 (2)(a) The director may cause an investigation to be conducted
13 into any incident:

14 (i) Of a use of deadly force by an involved officer occurring
15 after July 1, 2022, including any incident involving use of deadly
16 force by an involved officer against or upon a person who is in-
17 custody or out-of-custody; or

18 (ii) Involving prior investigations of deadly force by an
19 involved officer if new evidence is brought forth that was not
20 included in the initial investigation.

21 (b) This section applies only if, at the time of the incident:

22 (i) The involved officer was on duty; or

23 (ii) The involved officer was off duty but:

24 (A) Engaged in the investigation, pursuit, detention, or arrest
25 of a person or otherwise exercising the powers of a general authority
26 or limited authority Washington peace officer; or

27 (B) The incident involved equipment or other property issued to
28 the official in relation to his or her duties.

29 (3) The director shall determine prioritization of investigations
30 based on resources and other criteria which may be established in
31 consultation with the advisory board. The director shall ensure that
32 incidents occurring after the date the office begins investigating
33 cases receive the highest priority for investigation.

34 (4) The investigation should include a review of the entire
35 incident, including but not limited to events immediately preceding
36 the incident that may have contributed to or influenced the outcome
37 of the incident that are directly related to the incident under
38 investigation.

1 (5) Upon receiving notification required in RCW 43.102.120 of an
2 incident under the jurisdiction of the office, the director:

3 (a) May cause the incident to be investigated in accordance with
4 this chapter;

5 (b) May determine investigation is not appropriate for reasons
6 including, but not limited to, the case not being in the category of
7 prioritized cases; or

8 (c) If the director determines that the incident is not within
9 the office's jurisdiction to investigate, the director shall decline
10 to investigate, and shall give notice of the fact to the involved
11 agency.

12 (6) If the director determines the case is to be investigated the
13 director will communicate the decision to investigate to the involved
14 agency and will thereafter be the lead investigative body in the case
15 and have priority over any other state or local agency investigating
16 the incident or a case that is under the jurisdiction of the office.
17 The director will implement the process developed pursuant to RCW
18 43.102.050 and conduct the appropriate investigation in accordance
19 with the process.

20 (7) In conducting the investigation the office shall have access
21 to reports and information necessary or related to the investigation
22 in the custody and control of the involved agency and any law
23 enforcement agency responding to the scene of the incident including,
24 but not limited to, voice or video recordings, body camera
25 recordings, and officer notes, as well as disciplinary and
26 administrative records except those that might be statements
27 conducted as part of an administrative investigation related to the
28 incident.

29 (8) The investigation shall be concluded within 120 days of
30 acceptance of the case for investigation. If the office is not able
31 to complete the investigation within 120 days, the director shall
32 report to the advisory board the reasons for the delay.

33 (9) (a) Upon the completion of an investigation authorized under
34 this chapter, the office shall send its completed investigation and
35 referral to both the county prosecuting attorney of the jurisdiction
36 in which the offense occurred and the office of independent
37 prosecutions in accordance with protocols established under RCW
38 43.102.050(2)(c)(viii), and include any information, if known,
39 regarding the presence of a conflict of interest.

1 (b) All employees of the office of independent investigations,
2 and all members of an independent investigations team who participate
3 in the investigation of a use of deadly force by an involved officer
4 as defined in RCW 43.102.010, are encouraged to cooperate fully with
5 requests for interviews or additional information from the office of
6 independent prosecutions.

7 (c) The office of independent investigations or a member of the
8 independent investigations team that investigated an incident of use
9 of deadly force that is the subject of a review for criminal charges
10 are encouraged to, at the request of the office of independent
11 prosecutions, transport evidence to and from any laboratory, medical
12 examiner's office, or expert witness as directed by the office of
13 independent prosecutions.

14 (d) The office of independent investigations or a member of the
15 independent investigations team that investigated an incident of use
16 of deadly force that is the subject of criminal trial proceedings are
17 encouraged to, at the request of the office of independent
18 prosecutions, transport evidence to court as directed by the office
19 of independent prosecutions.

20 **Sec. 20.** RCW 41.80.400 and 2019 c 145 s 2 are each amended to
21 read as follows:

22 (1) In addition to the agencies defined in RCW 41.80.005 and
23 subject to the provisions of this section, this chapter applies to
24 assistant attorneys general.

25 (2)(a) Assistant attorneys general who are not otherwise excluded
26 from bargaining under (b) of this subsection are granted the right to
27 collectively bargain.

28 (b) Division chiefs, deputy attorneys general, the solicitor
29 general, the independent counsel, assistant attorneys general in the
30 labor and personnel division, special assistant attorneys general,
31 confidential employees as defined in RCW 41.80.005, and any assistant
32 or deputy attorney general who reports directly to the attorney
33 general are excluded from this section and do not have the right to
34 collectively bargain.

35 (3) The only unit appropriate for the purpose of collective
36 bargaining under this chapter is a statewide unit of all assistant
37 attorneys general not otherwise excluded from bargaining.

1 (4) The governor or the governor's designee and an exclusive
2 bargaining representative shall negotiate one master collective
3 bargaining agreement for assistant attorneys general.

4 **Sec. 21.** RCW 10.114.011 and 2021 c 318 s 401 are each amended to
5 read as follows:

6 Except as required by federal consent decree, federal settlement
7 agreement, or federal court order, where the use of deadly force by a
8 peace officer results in death, substantial bodily harm, or great
9 bodily harm, an independent investigation must be completed to inform
10 any determination of whether the use of deadly force met the good
11 faith standard established in RCW 9A.16.040 and satisfied other
12 applicable laws and policies. The investigation must be completely
13 independent of the agency whose officer was involved in the use of
14 deadly force and conducted in accordance with chapter 43.102 RCW. All
15 investigatory reports must be handled in accordance with RCW
16 43.102.080. Any rules adopted by the criminal justice training
17 commission must be consistent with chapter 43.102 RCW.

18 NEW SECTION. **Sec. 22.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 23.** 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.

26 NEW SECTION. **Sec. 24.** Sections 4 through 15 of this act are
27 each added to chapter 43.10 RCW.

28 NEW SECTION. **Sec. 25.** Sections 2, 3, 16, 17, 18, and 19 of this
29 act take effect January 1, 2025."

2SHB 1579 - S COMM AMD
By Committee on Ways & Means

1 On page 1, line 3 of the title, after "force;" strike the
2 remainder of the title and insert "amending RCW 43.10.230, 43.10.232,
3 43.10.234, 36.27.020, 36.27.030, 43.102.080, 41.80.400, and
4 10.114.011; adding a new section to chapter 36.27 RCW; adding new
5 sections to chapter 43.10 RCW; creating a new section; and providing
6 an effective date."

--- END ---

EFFECT:

- Effective date changed from July 1, 2024 to January 1, 2025 for sections establishing the concurrent jurisdiction of the Office of Independent Prosecutions and modifying requirements for county prosecuting attorneys and the Office of Independent Investigations.
- Reimbursement of costs for defense of an Office of Independent Prosecutor (OIP) case are allowed pursuant to RCW 9A.16.046, self-defense of peace officers.
- Defines "applicable use of force case" as a case arising from investigations conducted by the Office of Independent Investigations (OII) pursuant to RCW 43.102.030(1)(a) and (b).
- Aligns OIP jurisdiction to cases investigated by OII.