

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1088

Chapter 322, Laws of 2021

67th Legislature
2021 Regular Session

IMPEACHMENT DISCLOSURES

EFFECTIVE DATE: July 25, 2021

Passed by the House April 13, 2021
Yeas 63 Nays 35

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 9, 2021
Yeas 46 Nays 3

DENNY HECK

President of the Senate

Approved May 18, 2021 11:47 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1088** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 18, 2021

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1088

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Lovick, Goodman, Fitzgibbon, J. Johnson, Slatter, Wylie, Ramos, Bateman, Berry, Dolan, Tharinger, Simmons, Ryu, Ramel, Shewmake, Leavitt, Senn, Peterson, Gregerson, Valdez, Callan, Chopp, Duerr, Ormsby, Taylor, Lekanoff, Santos, Macri, Frame, Orwall, Berg, Pollet, and Harris-Talley)

READ FIRST TIME 02/02/21.

1 AN ACT Relating to potential impeachment disclosures; and adding
2 a new section to chapter 10.93 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.93
5 RCW to read as follows:

6 (1)(a) Each county prosecutor shall develop and adopt a written
7 protocol addressing potential impeachment disclosures pursuant to
8 *Brady v. Maryland*, 373 U.S. 83 (1963), and subsequent case law. The
9 protocol must provide guidance for: (i) The types of conduct that
10 should be recognized as potentially exculpatory or as creating
11 potential impeachment material; (ii) how information about an officer
12 or officer conduct should be shared and maintained; and (iii) under
13 what circumstances an officer's information or name may be removed
14 from any list of potential impeachment disclosures.

15 (b) The protocol shall be developed by the prosecuting attorney
16 with consultation of agencies representing law enforcement officers
17 and local departments that will be impacted by the protocol.

18 (c) Subject to amounts appropriated for this purpose, no later
19 than June 30, 2022, the criminal justice training commission shall
20 provide, or contract with an organization that serves prosecuting

1 attorneys in Washington to provide, online training for potential
2 impeachment disclosures.

3 (d) Local protocols under this section shall be adopted and in
4 place no later than July 1, 2022. Local protocols must be reviewed
5 every two years to determine whether modifications are needed.

6 (2)(a) A law enforcement agency shall report the following
7 information to the prosecuting authority of any jurisdiction in which
8 the officer may testify as a witness:

9 (i) Any act by the officer that may be potentially exculpatory to
10 a criminal defendant; and

11 (ii) Misconduct that the officer has engaged in that affects his
12 or her credibility.

13 (b) The law enforcement agency shall report the information
14 within 10 days of the discovery of the act under (a)(i) of this
15 subsection or the misconduct under (a)(ii) of this subsection.

16 (3)(a) Prior to hiring any peace officer with previous law
17 enforcement experience, a law enforcement agency must inquire as to
18 whether the officer has ever been subject to potential impeachment
19 disclosure. The agency shall verify the officer's response with the
20 prosecuting authorities in the jurisdictions of the officer's
21 previous employment. Prosecuting authorities shall respond within 10
22 days of receiving a request from a law enforcement agency for
23 verification. The fact that an officer has been subject to
24 impeachment disclosure is not, in and of itself, a bar to employment.
25 Any prehiring process or hiring decision by an agency does not
26 constitute a personnel action under RCW 10.93.150.

27 (b) Within 10 days of hiring an officer with a prior potential
28 impeachment disclosure, the law enforcement agency shall forward that
29 information to the prosecuting authority of any jurisdiction in which
30 the officer may testify as a witness.

31 (4) An appointed or elected public official, public employee, or
32 public agency as defined in RCW 4.24.470 is immune from civil
33 liability for sharing impeachment information about a peace officer
34 with the peace officer's employer, potential employer, or prosecuting
35 authority unless it is shown that the official, employee, or agency
36 acted with gross negligence or in bad faith.

Passed by the House April 13, 2021.
Passed by the Senate March 9, 2021.
Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

--- **END** ---