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**SECOND SUBSTITUTE HOUSE BILL 1092**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Lovick, Goodman, Berry, Leavitt, Fitzgibbon, J. Johnson, Slatter, Wylie, Bateman, Ramos, Berg, Sells, Dolan, Tharinger, Simmons, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Ryu, Bronoske, Valdez, Callan, Kloba, Hackney, Chopp, Duerr, Ormsby, Taylor, Lekanoff, Frame, Santos, Macri, Orwall, Davis, Pollet, Bergquist, and Harris-Talley; by request of Attorney General)

AN ACT Relating to requiring reporting, collecting, and publishing information regarding law enforcement interactions with the communities they serve; adding a new chapter to Title 10 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that law enforcement transparency and accountability are vital in maintaining public trust. Data collection is one essential tool to allow the public, law enforcement, and policymakers to analyze the effectiveness of existing police practices, determine which policies and training work and do not work, and avoid unintended consequences by supporting policy decisions with clear and relevant data.

The legislature finds that creating a statewide data collection program that creates a publicly accessible database to track metrics will help to promote openness, transparency, and accountability, build stronger police-community relations, improve trust and confidence in policing services, evaluate specific areas of concern such as biased policing and excessive force, and ultimately improve the quality of policing services.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Great bodily harm" has the same meaning as in RCW 9A.04.110.

(2) "Law enforcement agency" includes any "general authority Washington law enforcement agency" and "limited authority Washington law enforcement agency" as those terms are defined in RCW 10.93.020.

(3) "Substantial bodily harm" has the same meaning as in RCW 9A.04.110.

(4) "University" means Washington State University or its successor.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this purpose, the university shall establish and maintain a program to collect, report, and publish information on law enforcement's use of force and other interactions with and incidents involving the public. The program must be operated in accordance with the policy approved by the office of the attorney general under this section.

(2)(a) In carrying out the requirements of this section, the university may contract with public and private institutions of higher education and other organizations and businesses with significant expertise and experience in collecting, tracking, and reporting data on law enforcement's interactions with the public in the state.

(b) The university may establish an advisory group of public and private institutions and entities with experience in data collection and research, as well as experts in law enforcement.

(c) Any staff or researchers supporting the program through the university or its contractors must have appropriate expertise and experience in data collection and analysis, including training in racial equity issues.

(3) By November 1, 2021, the university shall submit to the attorney general a policy for statewide implementation of a data collection, reporting, and publication program, which must include the following elements:

(a) Define the specific data to be collected from law enforcement agencies on interactions between officers and the public, which must include: Use of force incidents, as provided in section 4 (1) and (2) of this act; vehicular pursuits, as provided in section 4(3) of this act; and additional incidents and interactions and additional details of those incidents and interactions, as identified by the university in consultation with the advisory group;

(b) Establish procedures and deadlines for law enforcement agencies to collect and report data to the university, which should incorporate methodologies based in best practices or those tested and validated in other jurisdictions, if possible;

(c) Establish procedures for the public to report relevant information to the university directly, including correcting misreported and otherwise incorrect data;

(d) Establish reporting, analyzing, and publishing practices and procedures for the university and its contractors, which must include, at a minimum:

(i) Public access to data and analysis in a searchable format published on a website by the university;

(ii) Access to raw data for academic research;

(iii) Interactive data visualization tools designed for law enforcement agencies and other entities to use the data for research, professional development, training, and management;

(iv) The ability to extract data from incident reports and officer narratives in order to standardize data across multiple agencies;

(v) Analysis of data, using methodologies based in best practices or those tested and validated in other jurisdictions, if possible, including, but not limited to, analysis of the data using legal algorithms based on the legal standard established in *Graham v. Connor*, 490 U.S. 386 (1989);

(vi) Analytical dashboards with individual officer details for use by law enforcement agencies as a risk management tool;

(vii) Agency level comparative dashboards for all law enforcement agencies in the state;

(viii) Historical data, if available, in order to identify long-term trends and patterns; and

(ix) Semiannual reports, summarizing the data collected and any related analysis, published on the website and submitted to the legislature and governor by March 30th and September 30th of each year; and

(e) Establish phased implementation, if necessary, for collecting and reporting data on different types of interactions and incidents based on current practices and currently available data as compared to additional practices that must be put into place by individual agencies across the state, provided that any phased implementation prioritizes use of force data as provided in section 4 of this act.

(4) The office of the attorney general shall review the policy submitted pursuant to subsection (3) of this section, and shall approve or reject the policy, either in part or in full. In reviewing the policy, the office of the attorney general shall consider the interests of the public in accessing information in a transparent and expedient manner as well as the institutional operations and demands of law enforcement agencies and the university. If the policy is rejected, in part or in full, the university shall submit a revised policy in accordance with any deadlines established by the office of the attorney general. Regardless of any revisions to the policy or any phased implementation approved by the office of the attorney general, data collection, reporting, and publication shall commence by July 1, 2022, on the elements provided under section 4 of this act. The office of the attorney general may approve a policy with an earlier implementation deadline.

(5) Following the approval of the policy under subsection (4) of this section, the university may submit revisions to the policy to modify the types of data collected and reported, including requiring reporting of additional data from law enforcement agencies. The office of the attorney general shall review and approve or reject any requested revisions in accordance with this section.

NEW SECTION. **Sec.**  (1) All law enforcement agencies shall report to the university the data required under subsection (2) of this section when:

(a) A fatality occurs in connection with the use of force by a law enforcement officer;

(b) Great bodily harm occurs in connection with the use of force by a law enforcement officer;

(c) Substantial bodily harm occurs in connection with the use of force by a law enforcement officer; or

(d) A law enforcement officer:

(i) Discharges a firearm at or in the direction of a person;

(ii) Points a firearm at a person;

(iii) Uses a chokehold or vascular neck restraint;

(iv) Uses an electronic control weapon including, but not limited to, a taser, against a person;

(v) Uses oleoresin capsicum spray against a person;

(vi) Discharges a less-lethal shotgun or other impact munitions at or in the direction of a person;

(vii) Strikes a person using an impact weapon or instrument including, but not limited to, a club, baton, or flashlight;

(viii) Uses any part of their body to physically strike a person including, but not limited to, punching, kicking, slapping, or using closed fists or feet;

(ix) Uses a vehicle to intentionally strike a person or vehicle; or

(x) Either deploys a canine by releasing it from the physical control of the law enforcement officer, if it bites a person, or both.

(2) When reporting an incident as required under subsection (1) of this section, the agency employing the officer that used force shall provide the following:

(a) The date and time of the incident;

(b) The location of the incident;

(c) The agency or agencies employing the law enforcement officers;

(d) The type of force used by the law enforcement officer;

(e) The type of injury to the person against whom force was used, if any;

(f) The type of injury to the law enforcement officer, if any;

(g) Whether the person against whom force was used was armed or unarmed;

(h) Whether the person against whom force was used was believed to be armed;

(i) The type of weapon the person against whom force was used was armed with, if any;

(j) The age, gender, race, and ethnicity of the person against whom force was used, if known;

(k) The tribal affiliation of the person against whom force was used, if applicable;

(l) Whether the person against whom force was used exhibited any signs associated with a potential mental health condition or use of a controlled substance or alcohol based on the observation of the law enforcement officer;

(m) The age, gender, race, and ethnicity of the law enforcement officer;

(n) The law enforcement officer's years of service;

(o) The reason for the initial contact between the person against whom force was used and the law enforcement officer;

(p) Whether any minors were present at the scene of the incident;

(q) The entity conducting the independent investigation of the incident, if applicable;

(r) Any other information required by the policy under section 3 of this act.

(3) All law enforcement agencies shall report to the university information on vehicular pursuits, which must include information on the age, gender, race, and ethnicity of the operators and passengers of vehicles pursued by law enforcement officers, if known, as well as any other information pertinent to the applicable standards for vehicular pursuits and other information deemed relevant by the university and approved by the office of the attorney general under section 3 of this act.

(4) All law enforcement agencies shall report to the university any additional data required by the policy under section 3 of this act, including additional types of interactions and incidents, and additional data relevant to such interactions and incidents.

(5) All law enforcement agencies shall submit the data required under this section to the university in the format and by the deadlines established by the policy under section 3 of this act, provided that agencies begin submitting data required under subsections (1) and (2) of this section no later than July 1, 2022, and provided that such submissions must occur on at least a quarterly basis.

NEW SECTION. **Sec.**  Sections 2 through 4 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

**--- END ---**