

SENATE BILL REPORT

SHB 2789

As of March 2, 2020

Title: An act relating to collecting information regarding police use of deadly force.

Brief Description: Collecting information regarding police use of deadly force.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Lovick, Klippert, Davis, Orwall, Valdez, Kilduff, J. Johnson, Ryu, Peterson, Ramel, Pollet, Young and Frame).

Brief History: Passed House: 2/17/20, 93-4.

Committee Activity: Law & Justice: 2/25/20, 2/27/20 [DP-WM, w/oRec].

Ways & Means: 2/29/20.

Brief Summary of Bill

- Requires law enforcement agencies in the state to report all incidents of the police use of deadly force to the Washington Association of Sheriffs and Police Chiefs (WASPC).
- Requires WASPC to collect and maintain information on the use of deadly force and summarize the information in an annual report to be published on its web page.
- Specifies information that must be included in a law enforcement agency's report to WASPC, consistent with data collected by the FBI for National Use-Of-Force Data Collection.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer and Salomon.

Minority Report: That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; Holy and Wilson, L..

Staff: Shani Bauer (786-7468)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Corban Nemeth (786-7736)

Background: Washington Association of Sheriffs and Police Chiefs. WASPC is an independent organization consisting of sheriffs, police chiefs, the Washington State Patrol, and the Department of Corrections. The WASPC is also a statutory entity and currently receives state funding to manage certain programs, including the jail booking and reporting system and Arrest and Jail Alternatives Law Enforcement Grant Program.

Law Enforcement Use of Deadly Force. "Deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury. Law enforcement officers may use deadly force in certain circumstances. This includes, for example, when necessarily used to apprehend or arrest a person who poses a threat of serious physical harm to the officer or others. In each circumstance, the officer must have a good faith belief that the act is justifiable according to certain statutory requirements.

Law enforcement officers must complete basic and advanced training to obtain and maintain certification. With the passage of Initiative 940 in 2018, officers are also required to complete de-escalation training. Officers must be trained on alternatives to the use of physical or deadly force so that de-escalation tactics and less lethal alternatives are part of the decision-making process leading up to the consideration of deadly force.

General and Limited Authority Law Enforcement Agencies. "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general. This includes, for example, county sheriffs, municipal police departments, the Washington State Patrol, and the Department of Fish and Wildlife.

"Limited authority law enforcement agency" means any agency, political subdivision, or unit of local government, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas. This includes, for example, the Department of Corrections, Department of Natural Resources, Department of Social and Health Services, Gambling Commission, and Liquor and Cannabis Board.

Summary of Bill: Subject to amounts appropriated, WASPC must collect and maintain information on the police use of deadly force and monitor, record, analyze, and report the information to the public on an annual basis. The report must be posted on the WASPC website and a copy must be submitted to the Governor and appropriate committees of the Legislature.

Every general authority law enforcement agency and limited authority law enforcement agency in the state must report to WASPC all instances of the police use of deadly force, including when:

- a fatality occurs in connection with the use of force by a law enforcement officer;
- serious bodily injury occurs in connection with the use of force by a law enforcement officer; or
- a firearm is discharged by law enforcement at or in the direction of a person.

Serious bodily injury is defined to mean bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Information that must be included in the law enforcement report to WASPC is specified, consistent with data collected by the FBI for National Use-Of-Force Data Collection.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Law & Justice): PRO: When the CJTC concluded its rulemaking, it voted to add a member to the CJTC and take steps to collect data on the deadly force incidents from law enforcement. The required information coincides with that provided to the FBI for its reporting efforts so the data is consistent and there is a basis to compare with other states.

WACOPS is extremely proud of the work it has done in building trust with community groups. We strongly believe in the importance of data and commend the bill to you.

This bill establishes trust through transparency. The Senate amendment was troubling to both WASPC and state auditors and we ask that you pass the House bill forward as is.

Persons Testifying (Law & Justice): PRO: Teresa Taylor, Washington Council of Police and Sheriffs, Executive Director; James McMahan, Washington Association of Sheriffs and Police Chiefs; Derek Zable, Criminal Justice Training Commission.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: There was a Criminal Justice Training Commission resolution to bring this bill forward. This bill allows for accurate comparisons of metrics across states. We have long supported the collection of data. The FBI data is a good place to start. The attorney general task force was formed to do what is in this bill. It is low cost and effective for the Commission and the WASPC to do this work, which is why it is before you today.

Persons Testifying (Ways & Means): PRO: Jeff DeVere, Washington Council of Police and Sheriffs; Derek Zable, Criminal Justice Training Commission.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.