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**SUBSTITUTE HOUSE BILL 1054**

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

**By** House Public Safety (originally sponsored by Representatives J. Johnson, Entenman, Dolan, Ryu, Berry, Simmons, Bateman, Kloba, Lekanoff, Duerr, Fitzgibbon, Slatter, Wylie, Ramos, Berg, Tharinger, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Valdez, Callan, Hackney, Morgan, Chopp, Cody, Ormsby, Taylor, Frame, Santos, Macri, Davis, Pollet, Bergquist, and Harris-Talley)

AN ACT Relating to establishing requirements for tactics and equipment used by peace officers; amending RCW 10.31.040; adding a new chapter to Title 10 RCW; and repealing RCW 43.101.226.

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

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

(1) "Law enforcement agency" includes any "general authority Washington law enforcement agency" and any "limited authority Washington law enforcement agency," as those terms are defined in RCW 10.93.020, and any state or local agency providing or otherwise responsible for the custody, safety, and security of adults or juveniles incarcerated in correctional, jail, or detention facilities. "Law enforcement agency" does not include the national guard or state guard under Title 38 RCW or any other division of the United States armed forces.

(2) "Peace officer" includes any "general authority Washington peace officer," "limited authority Washington peace officer," and "specially commissioned Washington peace officer" as those terms are defined in RCW 10.93.020, and any employee, whether part-time or full-time, of a jail, correctional, or detention facility who is responsible for the custody, safety, and security of adult or juvenile persons confined in the facility.

NEW SECTION. **Sec.**  (1) A peace officer may not use a chokehold or neck restraint on another person in the course of his or her duties as a peace officer.

(2) Any policies pertaining to the use of force adopted by law enforcement agencies must be consistent with this section.

(3) For the purposes of this section:

(a) "Chokehold" refers to any tactic in which direct pressure is applied to a person's trachea or windpipe or any other tactic intended to restrict another person's airway.

(b) "Neck restraint" refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

NEW SECTION. **Sec.**  (1) A peace officer may not use a police dog for the purpose of arresting or apprehending another person.

(2) A law enforcement agency authorizing the use of police dogs shall adopt policies consistent with this section.

NEW SECTION. **Sec.**  (1) A law enforcement agency may not purchase, acquire, use, or authorize its peace officers or other employees to use tear gas for any purpose.

(2) For the purposes of this section, "tear gas" refers to chloroacetophenone (CN), O-chlorobenzylidene malononitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury, except "tear gas" does not include oleoresin capsicum (OC).

NEW SECTION. **Sec.**  (1) A law enforcement agency may not acquire or use any military equipment. Any law enforcement agency in possession of military equipment as of the effective date of this section shall return the equipment to the federal agency from which it was acquired, if applicable, or destroy the equipment by December 31, 2022.

(2) For the purposes of this section, "military equipment" means firearms and ammunition of .50 caliber or greater, machine guns, silencers, armed helicopters, armed or armored drones, armed vessels, armed vehicles, armed aircraft, tanks, mine resistant ambush protected vehicles, long range acoustic hailing devices, rockets, rocket launchers, bayonets, grenades, grenade launchers, missiles, directed energy systems, and electromagnetic spectrum weapons.

(3) This section does not prohibit a law enforcement agency from participating in a federal military equipment surplus program, provided that any equipment acquired through the program does not constitute military equipment. This may include, for example: Medical supplies; hospital and health care equipment; office supplies, furniture, and equipment; school supplies; warehousing equipment; unarmed vehicles and vessels; conducted energy weapons; public address systems; scientific equipment; and protective gear and weather gear.

NEW SECTION. **Sec.**  All law enforcement agencies shall adopt policies and procedures to ensure that uniformed peace officers while on duty and in the performance of their official duties are reasonably identifiable. For purposes of this section, "reasonably identifiable" means that the peace officer's uniform clearly displays the officer's name or other information that members of the public can see and the agency can use to identify the peace officer.

NEW SECTION. **Sec.**  (1) A peace officer may not engage in a vehicular pursuit, unless:

(a) There is probable cause to believe that a person in the vehicle has committed or is committing a violent offense or sex offense, as those terms are defined in RCW 9.94A.030;

(b) The pursuit is necessary for the purpose of identifying or apprehending the person;

(c) Under the circumstances, the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit;

(d) The officer has received authorization to engage in the pursuit from a supervising officer; and

(e) There is supervisory control of the pursuit, and the supervisor considers relevant factors affecting public safety, such as whether there are minors present in the vehicle.

(2) A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. For the purposes of this subsection, a vehicle is not considered a deadly weapon unless extraordinary circumstances apply where it appears the operator is using the vehicle for the purpose of causing serious physical harm to another person and the officer has no other reasonably accessible means to stop the harm.

**Sec.**  RCW 10.31.040 and 2010 c 8 s 1030 are each amended to read as follows:

(1) To make an arrest in criminal actions, the officer may break open any outer or inner door, or windows of a dwelling house or other building, or any other ((~~inclosure [enclosure]~~)) enclosure, if, after notice of his or her office and purpose, he or she be refused admittance.

(2) An officer may not seek and a court may not issue a search or arrest warrant granting an express exception to the requirement for the officer to provide notice of his or her office and purpose when executing the warrant.

NEW SECTION. **Sec.**  RCW 43.101.226 (Vehicular pursuits—Model policy) and 2003 c 37 s 2 are each repealed.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 10 RCW.

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