

SSB 5066 - S AMD 97
By Senator Wagoner

NOT ADOPTED 02/23/2021

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

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

5 (1) Any identifiable on-duty Washington peace officer who
6 witnesses another on-duty Washington peace officer engaging or
7 attempting to engage in the excessive use of force against another
8 person shall intervene when in a position to do so to end the
9 excessive use of force or attempted excessive use of force, or to
10 prevent the further use of excessive force. A peace officer shall
11 also render aid at the earliest safe opportunity in accordance with
12 RCW 36.28A.445, to any person injured as a result of the use of
13 force.

14 (2) Any identifiable on-duty Washington peace officer who
15 observes any wrongdoing committed by another Washington peace
16 officer, or has a good faith reasonable belief that another peace
17 officer committed wrongdoing, shall report such wrongdoing to the
18 officer's supervisor or other supervisory peace officer in accordance
19 with the peace officer's employing agency's policies and procedures
20 for reporting such acts committed by a peace officer.

21 (3) A member of a law enforcement agency shall not discipline or
22 retaliate in any way against a peace officer for intervening in good
23 faith as required by subsection (1) of this section or for reporting
24 wrongdoing in good faith.

25 (4) A law enforcement agency shall send notice to the criminal
26 justice training commission of any disciplinary decision resulting
27 from a peace officer's failure to intervene or failure to report
28 wrongdoing as required by this section to determine whether the
29 officer's conduct may be grounds for suspension or revocation of
30 certification under RCW 43.101.105.

31 (5) For purposes of this section:

1 (a) "Excessive force" means force that is clearly beyond that
2 which is objectively reasonable under the circumstances.

3 (b) "Wrongdoing" means conduct that:

4 (i) Knowingly violates clearly established rights of any person
5 while on duty; or

6 (ii) Constitutes a criminal act, whether on duty or off duty.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101
8 RCW to read as follows:

9 (1) By December 1, 2021, the Washington state criminal justice
10 training commission, the Washington state patrol, the Washington
11 association of sheriffs and police chiefs, and organizations
12 representing state and local law enforcement officers shall develop a
13 written model policy on the duty to intervene, consistent with the
14 provisions of section 1 of this act.

15 (2) By June 1, 2022, every Washington law enforcement agency
16 shall adopt and implement a written duty to intervene policy. The
17 policy adopted may be the model policy developed under subsection (1)
18 of this section. However, any policy adopted must, at a minimum, be
19 consistent with the provisions of section 1 of this act.

20 (3) By January 31, 2022, the commission shall incorporate
21 training on the duty to intervene in the basic law enforcement
22 training curriculum. Existing peace officers must receive training on
23 the duty to intervene by December 31, 2023.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56
25 RCW to read as follows:

26 Notwithstanding any provisions of this chapter, the provisions of
27 chapter . . . , Laws of 2021 (this act) and the implementation thereof
28 do not constitute personnel matters, working conditions, or any other
29 change that requires collective bargaining.

30 NEW SECTION. **Sec. 4.** To the extent that any provision of this
31 act conflicts with any local regulation, ordinance, collective
32 bargaining agreement, memorandum of understanding, policy, or
33 practice, the provisions of this act prevail and the conflicting
34 provisions are null and void. If the application of this section to a
35 collective bargaining agreement in effect on the effective date of
36 this section would result in impairing contractual obligations under
37 that agreement, then the existing collective bargaining agreement

1 prevails until such time as the agreement expires, renews, or is
2 amended."

SSB 5066 - S AMD 97
By Senator Wagoner

NOT ADOPTED 02/23/2021

3 On page 1, line 1 of the title, after "intervene;" strike the
4 remainder of the title and insert "adding a new section to chapter
5 10.93 RCW; adding a new section to chapter 43.101 RCW; adding a new
6 section to chapter 41.56 RCW; and creating a new section."

EFFECT: (1) Requires that the observed officer must be identifiable and on-duty before the observing officer is required to intervene.

(2) Clarifies good faith interveners and reporters are protected from retaliation.

(3) Clarifies the definitions of excessive force and wrongdoing.

(4) Clarifies the act applies to Washington peace officers.

(5) Clarifies that when the act impairs contractual obligations, the existing collective bargaining agreement prevails until such time as the agreement expires, is renewed, or is amended.

(6) Clarifies that the act does not constitute a change that requires collective bargaining.

(7) Amends the title.

--- END ---