

HOUSE BILL REPORT

ESSB 6009

As Passed House - Amended:

February 28, 2024

Title: An act relating to prohibiting the use of hog-tying.

Brief Description: Prohibiting the use of hog-tying.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Trudeau, Lovick, Frame, Hasegawa, Nguyen, Nobles, Saldaña, Stanford, Valdez, Wellman and Wilson, C.).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 2/14/24, 2/20/24 [DP].

Floor Activity:

Passed House: 2/28/24, 89-7.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Prohibits peace officers from hog-tying a person or assisting in putting a person into a hog-tie.
- Provides that hog-tying constitutes the use of excessive force for the purpose of identifiable on-duty police officers' duty to intervene in and report certain conduct.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 8 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse and Ramos.

Minority Report: Without recommendation. Signed by 1 member: Representative

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

Graham.

Staff: Corey Patton (786-7388).

Background:

Under state law, identifiable on-duty peace officers who witness another peace officer engaging or attempting to engage in the use of excessive force against another person are required to intervene when in a position to do so to end or prevent the use, attempted use, or further use of excessive force. Peace officers must render aid at the earliest safe opportunity to any person injured as a result of the use of force. Identifiable on-duty peace officers who witness any wrongdoing committed by another peace officer, or who have a good faith reasonable belief of such wrongdoing, must report such wrongdoing to a supervisor in accordance with agency policies and procedures for reporting such acts. Members of a law enforcement agency may not discipline or retaliate in any way against a peace officer for intervening in good faith or for reporting wrongdoing in good faith. Law enforcement agencies must notify the Criminal Justice Training Commission of any disciplinary decision resulting from a peace officer's failure to intervene or report.

Summary of Amended Bill:

Peace officers may not hog-tie a person by fastening together bound or restrained ankles to bound or restrained wrists, or assist in putting a person into a hog-tie. Hog-tying does not include the use of:

- transport chains or wrist chains to transport prisoners; or
- a product or device that does not require bound or restrained ankles to be fastened to bound or restrained wrists.

The prohibition on hog-tying must not be interpreted to prohibit the use of any other alternative restraint product or device that is administered to reduce the incidence of respiratory fatigue or positional asphyxia and that does not violate the prohibition on hog-tying. Hog-tying constitutes the use of excessive force for the purpose of identifiable on-duty peace officers' duty to intervene in and report the conduct of other peace officers.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Law enforcement has a duty to preserve life. Hog-tying creates an

unnecessary, unacceptable risk to life and undermines the public's trust in law enforcement. The bottom line is that distrust impacts everyone's safety, and law enforcement must secure trust through ensuring accountability. It is important that every community feel and be safe, which requires doing things differently and naming things that are deeply uncomfortable. Violent tactics are used disproportionately on indigenous persons and other people of color. Hog-tying has no place in law enforcement tactics because it is inhumane, unjust torture. No person should spend the final moments of their life struggling to breathe.

The recommendation to discontinue the practice of hog-tying comes from the United States Department of Justice. Many local jurisdictions in the state have already banned this practice, and a statewide ban is long overdue. It is disappointing that some jurisdictions have refused to adopt this policy voluntarily.

(Opposed) Neither the use of hog-tying as a tactic nor the name attributed to it should be celebrated. However, a restrained person can continue being a potential harm to themselves and officers. Do not prohibit the use of hog-tying without providing a viable alternative. There are technologies available that are just as effective as hog-tying and are more humane, but the most cited barriers to using these technologies are their cost and the number of officers needed to safely apply them. The Legislature should assist law enforcement with acquiring these technologies to help accomplish the shared goal of keeping people safe in the most effective, humane manner possible. The definition of hog-tying in this bill should also be carefully reviewed to ensure it does not create unintended consequences.

Persons Testifying: (In support) Senator Yasmin Trudeau, prime sponsor; Victoria Woodards, City of Tacoma; Jamika Scott, Tacoma City Council; and Nickeia Hunter and Trishandra Pickup, Washington Coalition for Police Accountability.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.