

HOUSE BILL REPORT

HI 2113

As Passed House:

March 4, 2024

Title: An act relating to restoring the authority of a peace officer to engage in a vehicular pursuit when there is reasonable suspicion a person has violated the law and the officer follows appropriate safety standards.

Brief Description: Concerning vehicular pursuits by peace officers.

Sponsors: People of the State of Washington.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 2/28/24, 3/1/24 [DP].

Floor Activity:

Passed House: 3/4/24, 77-20.

Brief Summary of Initiative

- Expands authorization for vehicular pursuits by allowing an officer to conduct a vehicular pursuit where there is reasonable suspicion a person has violated the law.
- Modifies the risk assessment for vehicular pursuits by providing that an officer may not engage in a vehicular pursuit unless the person poses a threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 7 members: Representatives Goodman, Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member;

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.

Davis, Fosse, Graham and Ramos.

Minority Report: Do not pass. Signed by 2 members: Representatives Simmons, Vice Chair; Farivar.

Staff: Corey Patton (786-7388).

Background:

Peace officers with arrest authority may engage in fresh pursuit of a person who is reasonably believed to have committed a violation of traffic or criminal laws, or for whom the officer has an arrest warrant. This may include engaging in a vehicular pursuit if the person flees in a vehicle. A "vehicular pursuit" is an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator appears to be aware that the officer is signaling the operator to stop the vehicle and the operator appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer. When engaging in a vehicular pursuit, an officer may violate certain rules of the road, including stop signals, speed limits, and parking restrictions.

In 2021 the Legislature enacted Engrossed Substitute House Bill 1054, which, in part, established statewide restrictions on vehicular pursuits by prohibiting a vehicular pursuit unless:

- there was probable cause to believe that a person in the vehicle had committed or was committing a violent offense, a sex offense, or an Escape, or there was reasonable suspicion that a person in the vehicle had committed or was committing a Driving Under the Influence offense;
- the vehicular pursuit was necessary for the purpose of identifying or apprehending the person; and
- the person posed an imminent threat to the safety of others and the safety risk of failing to apprehend or identify the person was considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances.

Engrossed Substitute House Bill 1054 also established requirements related to the supervisory authorization for and control of vehicular pursuits, with certain exceptions for jurisdictions with fewer than 10 commissioned officers if a supervisor was not on duty, and requirements related to compliance with agency procedures for designating the primary pursuit vehicle, determining the appropriate number of vehicles permitted to participate in the vehicular pursuit, and coordinating operations with other jurisdictions.

In 2023 the Legislature subsequently enacted Engrossed Senate Bill 5352, which modified the statutory restrictions on vehicular pursuits by prohibiting a vehicular pursuit unless:

- there is reasonable suspicion that a person in the vehicle has committed or is

committing a violent offense, a sex offense, a Vehicular Assault offense, an Assault offense involving domestic violence, an Escape, or a Driving Under the Influence offense;

- the vehicular pursuit is necessary for identifying or apprehending the person; and
- the person poses a serious risk of harm to others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances.

Engrossed Senate Bill 5352 also modified the requirements for supervisory authorization and control to instead require supervisory notification and oversight, expanded the related exceptions to these supervisory requirements to apply to jurisdictions with fewer than 15 commissioned officers, and established the following additional requirements for vehicular pursuits:

- the pursuing officer, and applicable supervising officer, must comply with agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit;
- the pursuing officer, applicable supervising officer, or dispatch must notify surrounding law enforcement agencies that may be impacted or called upon to assist with the pursuit;
- the pursuing officer must be able to communicate with other involved officers and dispatch;
- as soon as practicable, the pursuing officer, applicable supervising officer, or responsible agency must develop a plan to end the pursuit through the use of available pursuit intervention options; and
- the pursuing officer must have completed an emergency vehicle operator's course, completed updated emergency vehicle operator training in the previous two years where applicable, and be certified in at least one pursuit intervention option.

A vehicular pursuit that does not meet all statutory requirements must be terminated.

Summary of Initiative:

The evidentiary threshold required for engaging in vehicular pursuits is modified to allow an officer to conduct a vehicular pursuit where there is reasonable suspicion a person has violated the law, provided all other statutory requirements for the vehicular pursuit are met. The required risk assessment for vehicular pursuits is modified to specify that an officer may not engage in a vehicular pursuit unless the person poses a threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The people of Washington are suffering from increasing rates of crime and are calling out for help, and law enforcement officers have stressed that they need the ability to chase bad people. There is an increasing disregard for the law, which has demoralized the law enforcement workforce and resulted in a distrust of police. Data from local agencies demonstrates that significantly more people are fleeing since the statewide vehicular pursuit policies were enacted. Washington currently has the highest rate of car thefts in the nation and car insurance costs have skyrocketed as a result. Moreover, there has been an increase in traffic collisions and fatalities, and lives have been lost because of the failure to apprehend bad people before they go on to commit further crimes.

At this critical point in state history, this initiative takes a narrow approach to do the single thing that will most effectively address crime. This initiative changes the standard of discretion that a pursuing officer must meet before chasing a criminal suspect, while leaving in place the existing standards for training and supervision. Making this change will help law enforcement officers exercise their training and judgment more effectively to enforce the law and will improve their mental health and well-being. This initiative is not about high-speed chases in our communities; it is about restoring the ability for local jurisdictions to decide when chases are appropriate. Local jurisdictions will not be prohibited from choosing to implement stricter controls. Law enforcement agencies recognize the potential dangers of pursuits, but overly restrictive laws that allow people to flee are not the solution. However, pursuits should not be the only option available to officers. The Legislature should also provide the tools and supports needed to deter crime and avoid the need for pursuits in the first place.

(Opposed) Tragic events have occurred due to the deadly use of pursuit intervention techniques. When the police finally prioritize public safety, people can stop worrying about who will be the next victim of police violence. This initiative drags back state law and makes the streets more dangerous by allowing pursuits for any infraction. Unrestricted pursuits make no sense. The current law is balanced, effective, and aligns with the best practices for law enforcement.

(Other) Although public safety sometimes demands engaging in pursuits, a growing body of data and research shows these pursuits harm safety by putting officers and the public at risk. More than 3,000 people have been killed due to pursuits over the previous five years, over 500 of which were bystanders. These pursuits are rarely for violent offenses. Pursuits result in officer injuries and fatalities at alarming rates, accounting for 5 percent of all line-of-duty deaths. Pursuits also result in racially disproportionate outcomes. Local governments and insurers have paid out considerable amounts due to injury and death settlements.

The consensus from research published by the United States Department of Justice's Office of Community Oriented Policing Services is that officers should not engage in a pursuit when responding to a nonviolent situation that does not pose an imminent threat. What matters is whether a fleeing person committed a violent offense; not whether the offense was a felony or misdemeanor. Studies in other states have demonstrated that reducing pursuits does not necessarily affect crime rates as much as it affects the philosophies of prosecuting attorneys. Pursuit intervention techniques are not easy to utilize, and the police often have no way to stop someone who is fleeing other than by applying deadly force. Many jurisdictions have begun responding to the immense danger of pursuits by enacting restrictive policies that only permit pursuits for specified offenses involving an imminent threat.

While the standards for pursuits in current law and in the initiative are different, both strike a balance between the effective apprehension of suspects and the safety of officers and the public. It is important to have laws that keep up with changing times. Justice must be served without compromising the safety of innocent bystanders and officers. Law enforcement agencies can adapt their approaches provided they have consistent training and clearly established policies.

Persons Testifying: (In support) James McMahan, Washington Association of Sheriffs and Police Chiefs; Brian Heywood; Amber Goldade; and Jim Walsh.

(Opposed) Sonia Joseph, Washington Coalition for Police Accountability.

(Other) Geoffrey Alpert, University of South Carolina; James Schrimsher, Washington State Fraternal Order of Police; and Josh Parker, Policing Project at New York University School of Law.

Persons Signed In To Testify But Not Testifying: More than 20 persons signed in. Please see committee staff for information.