SENATE BILL REPORT
HB 1635

As Passed Senate - Amended, February 29, 2024

Title: An act relating to limiting liability arising from the use of trained police dogs.

Brief Description: Limiting liability arising from the use of trained police dogs.

Sponsors: Representatives Mosbrucker, Walsh and Eslick.

Brief History: Passed House: 1/31/24, 97-0.
    Committee Activity: Law & Justice: 2/15/24, 2/20/24 [DPA, w/oRec].
    Floor Activity: Passed Senate - Amended: 2/29/24, 49-0.

Brief Summary of Bill
(As Amended by Senate)

- Requires the Criminal Justice Training Commission to develop model standards for the training and certification of canine teams to detect fentanyl by July 1, 2025.

- Provides that a state or local government or law enforcement agency is not strictly liable for damages resulting from the lawful application of a police dog.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.
    Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez and Wilson, L..

Minority Report: That it be referred without recommendation.
    Signed by Senator Wagoner.

Staff: Ryan Giannini (786-7285)

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.

Background: In 2021, the Legislature required the Criminal Justice Training Commission (CJTC) to convene a work group to develop a model policy for the training and use of canine teams. Canine teams working in Washington must be certified according to the CJTC's adopted standards, including knowledge of and compliance with the CJTC's model policy.

Performance standards for certification vary depending on the canine team's intended use. For example, narcotics detection teams are subject to specific evaluations and performance testing with their assigned duty canine, including testing whether the canine is able to specifically pinpoint the odors of heroin, cocaine, and methamphetamine.

A law enforcement officer who has successfully completed training in police dog handling as prescribed by the CJTC and uses a police dog in the line of duty in good faith is immune from civil action for damages arising out of such use of the police dog. A police dog is a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

Summary of Amended Bill: By July 1, 2025, the CJTC must develop model standards for the training and certification of canine teams to detect fentanyl.

A state or local government or law enforcement agency is not strictly liable for damages resulting from the lawful application of a police dog.

Appropriation: None.

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 on House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There is currently a fentanyl epidemic. Currently, detection dogs could walk by fentanyl and have no idea that they are supposed to let us know that the fentanyl is there. There is only one canine fentanyl detector in Washington, which was certified by a California certifier because Washington does not have a certification process. This bill will ensure that the CJTC can create best practices, model policies, and training certification for fentanyl detection dogs. This will save countless human lives and protect the dogs who serve us from harm of overdose. A majority of agencies will utilize this tool to train existing detection dogs to detect fentanyl. This bill is not an ask for more dogs or to use dogs in different scenarios. The liability part of this bill will ensure that officers are not liable if a dog alerts to medically prescribed fentanyl.

CON: We support the CJTC developing model standards, training, and certification for

fentanyl detection dogs, but are concerned about granting blanket immunity. Washington would be the only state in the nation that statutorily bars liability for police dogs. Training and certification does not ensure a trained police dog will follow its training or be properly deployed. The individual being targeted, bystanders, and police officers can be seriously or fatally injured. Use of police dogs poses greater threats to vulnerable populations and disproportionately impact people of color, especially black men. Preventing individuals from bringing civil suits against officers and agencies will leave individuals without recourse when their rights are violated during these drug sniffing searches. Officers already have built-in defenses to civil rights claims especially under the Fourth Amendment.

Persons Testifying: PRO: Representative Gina Mosbrucker, Prime Sponsor; David Hayes, Washington State Narcotics Investigators Association; Jason Nyhus, Washington State Police Canine Association; Anne Anderson, Washington State Narcotics Investigators Association; James McMahan, WA Assoc Sheriffs & Police Chiefs.

CON: Enoka Herat, ACLU-WA; Daniel Goodman, Washington State Association for Justice; Keisha James, National Police Accountability Project.

Persons Signed In To Testify But Not Testifying: No one.