

SENATE BILL REPORT

SB 5533

As of February 10, 2023

Title: An act relating to the creation of a model vehicle pursuit policy for law enforcement agencies and the creation of a vehicle pursuit technology grant program.

Brief Description: Concerning the creation of a model vehicle pursuit policy.

Sponsors: Senators Lovick, Randall, Dhingra, Hunt, Liias, Lovelett, Nguyen, Nobles, Pedersen, Robinson, Saldaña, Shewmake and Van De Wege.

Brief History:

Committee Activity: Law & Justice: 1/30/23, 2/02/23 [DPS-WM, w/oRec].
Ways & Means: 2/14/23.

Brief Summary of First Substitute Bill

- Creates a model vehicle pursuit policy work group within the Criminal Justice Training Commission.
- Creates a law enforcement technology grant program related to modern vehicle pursuit management technology.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5533 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; McCune, Torres, Wagoner and Wilson, L..

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.

Staff: Joe McKittrick (786-7287)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sarian Scott (786-7729)

Background: A vehicle pursuit means 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 the vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

A peace officer may not engage in a vehicle pursuit, unless:

- there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense or an escape offense, or there is reasonable suspicion that a person in the vehicle has committed or is committing a driving under the influence offense;
- the pursuit is necessary for the purpose of identifying or apprehending the person; and
- the person poses an imminent threat to the safety of others and the safety risk of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances.

An officer must receive authorization to engage in any vehicular pursuit from a supervising officer, and there must be supervisory control of any vehicular pursuit. The supervising officer must consider the justification for the vehicular pursuit, and other safety considerations, including speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

In jurisdictions with fewer than ten commissioned officers, if a supervisor is not on duty at the time, the pursuing officer will request the on-call supervisor be notified of the pursuit according to agency procedures. In the absence of a supervisor in these circumstances, the pursuing officer must still comply with the same requirements and safety considerations in evaluating whether to conduct or terminate a pursuit.

A pursuing officer must comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicle pursuit, and comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable.

Summary of Bill (First Substitute): The Criminal Justice Training Commission (CJTC) must convene a work group to develop a model vehicle pursuit policy for peace officers. CJTC must ensure the work group is comprised of both community and law enforcement stakeholders, including the Washington Association of Sheriffs and Police Chiefs, the

Washington Fraternal Order of Police, a community organization working on traffic safety issues, a statewide organization working on police accountability, families who have lost loved ones as a result of actions by others violating traffic or criminal law, the Washington Association of Prosecuting Attorneys, and a national organization advocating for traffic safety.

The CJTC is encouraged to invite experts in police tactics, and academics and researchers in the area of criminal justice.

In drafting the model vehicle pursuit policy, the work group must consider certain circumstances related to vehicle pursuits including:

- where vehicle pursuits may not be justified;
- where peace officers should consider the use of tactics other than engaging in a vehicle pursuit;
- factors influencing the termination of a pursuit;
- procedures and tactics for officers engaged in a pursuit;
- peer-reviewed research findings pertaining to pursuit policies, procedures, and training;
- the impact of technology to address vehicle pursuits;
- factors influencing motorists decisions to flee police detention; and
- pursuit results when officers terminate or pursue to conclusion.

Law enforcement agencies may submit a preferred vehicle pursuit policy to the work group for its review and consideration.

CJTC must present the model vehicle pursuit policy to the appropriate committees of the Legislature, and publish the policy on its website no later than October 31, 2024.

Subject to appropriations, CJTC must develop and implement a law enforcement technology grant program for the purpose of providing law enforcement with modern vehicle pursuit management technology such as GPS tracking equipment, automated license plate reading technology, and drones.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Adds an intent section.
- Adds required members to the work group.
- Adds additional factors the work group must consider in drafting a model policy for the training and use of vehicular pursuits for peace officers.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

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 Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Pursuits are very dangerous. This issue is so complex that it requires input from diverse perspectives to ensure the most effective and sustainable approaches. This bill does not preclude additional action by the Legislature to address current restrictions on pursuits. This bill directs the CJTC to establish a work group to develop a model policy for pursuits. Police officers are doing their job to the best of their ability. They should have the opportunity to continue to do that job. The change in vehicular pursuits law in 2021 was to decrease the significant number of individuals who were killed or injured. There is strength and safety in building strategy and being deliberative. There are dangers to pursuits, to the public, to officers, and to community members who should not be collateral damage and sacrifice their lives due to bad policy. This bill should have a greater focus on uniform data collection standards because it is important to know what the risks and benefits of pursuits are in order to have a balanced pursuit policy.

CON: Legislative action on pursuits in 2021 encouraged people to run from police. Legislative action this year is required to fix it. This bill does not do that. If this bill repealed or modified current law on pursuits, there would be more support. State Patrol data shows that more than 3100 additional drivers fled a WSP trooper since the pursuit statute went into place. At the same time, there were 500 fewer pursuits. Fewer pursuits, but more people are fleeing. 2022 was one of the most dangerous years on Washington's roadways in more than 30 years. This is not a time to just study pursuits. This issue is not too emotional or political for the leg's consideration. The 2021 Legislature did not need to study, have work groups, or data when it instituted restrictions on vehicular pursuits.

OTHER: The public understands that if nobody has a pursuit policy, there is a large group of people who will not stop. This is an increase in the number of people who are not being held accountable for the laws being violated. When stopped appropriately, pursuits are effective. Especially in encouraging those who might think about not stopping. Moving toward a technology pursuit platform is the future, but the budget in places like Thurston County does not allocate for that. Requiring probable cause instead of reasonable suspicion for violent felonies is problematic. There is data in regard to pursuits in Washington State that should be considered in developing any kind of policy recommendation for crime and traffic safety.

Persons Testifying (Law & Justice): PRO: Senator John Lovick, Prime Sponsor; Monica Alexander, Washington State Criminal Justice Training Commission; Candice Bock, Association of Washington Cities; Mark Johnson, Washington Retail Association; Kristin

Ang, Faith Action Network; Aaron Czyzewski, Food Lifeline; Leslie Cushman, Washington Coalition for Police Accountability; Martina Morris, Next Steps Washington; James Schrimpsheer, Washington State Fraternal Order of Police.

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs.

OTHER: Jeff DeVere, WACOPS - Washington Council of Police and Sheriffs; Eric Pratt, I, America; Derek Sanders, Thurston County Sheriff's Office.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.