

HOUSE BILL REPORT

HB 2882

As Reported by House Committee On: Public Safety

Title: An act relating to collecting data regarding occasions of justifiable homicide or use of deadly force.

Brief Description: Collecting data regarding occasions of justifiable homicide or use of deadly force.

Sponsors: Representatives Appleton and Moscoso.

Brief History:

Committee Activity:

Public Safety: 2/3/16, 2/5/16 [DP].

Brief Summary of Bill

- Requires all general authority Washington law enforcement agencies to annually report to the Office of the Attorney General (AG) regarding the occasions of justifiable homicide or use of deadly force by a public officer.
- Requires the Office of the AG to annually compile and make the collected data public.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 5 members: Representatives Goodman, Chair; Orwall, Vice Chair; Appleton, Moscoso and Pettigrew.

Minority Report: Do not pass. Signed by 4 members: Representatives Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Griffey and Wilson.

Staff: Yvonne Walker (786-7841).

Background:

State Law on Use of Deadly Force by Officers. Deadly force is the intentional application of force through the use of firearms or any other means reasonably likely to cause death or

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serious physical injury. State law authorizes the use of deadly force by officers in certain circumstances.

Deadly force is legally justifiable in any of the following contexts:

- when a public officer is acting in obedience to the judgment of a competent court;
- when necessarily used by a peace officer to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty; or
- when necessarily used by a peace officer or a person acting under the officer's command and in the officer's aid: (a) to arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony; (b) to prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility; (c) to prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or (d) to lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

In considering whether to use deadly force to arrest or apprehend any person for the commission of any crime, a peace officer must have probable cause to believe that the suspect poses a threat of serious physical harm to the officer or others if he or she is not apprehended. Under these circumstances, deadly force may also be used if necessary to prevent escape from the officer, as long as some warning is given when feasible. Threat of serious physical harm includes, but is not limited to: the suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or there is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

Immunity from Prosecution. State law provides a public officer or peace officer with immunity from criminal liability for using deadly force when it is used without malice and with a good faith belief that the use is permitted under the law.

Summary of Bill:

By January 1, 2017, all law enforcement agencies must annually report to the Office of the Attorney General (AG) regarding all occasions where the use of justifiable homicide or use of deadly force took place by a peace officer or a person acting under the officer's command and in the officer's aid. The report must include the following: (1) the number of incidents in which peace officers discharged firearms at citizens; (2) the demographic characteristics of the officers and citizens involved in each incident, including sex, age, race, and ethnicity; (3) the agency or agencies employing the involved officers and location of each incident; (4) the particular weapons used by the peace officers and the citizens; and (5) the injuries, if any, suffered by the officers and citizens.

By July 1, 2017, and annually thereafter, the Office of the AG must compile and make public the data collected from law enforcement agencies regarding the occasions where the use of justifiable homicide or use of deadly force took place.

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) Most law enforcements agencies might be upset by this bill, but data has never been compiled on the number of justifiable homicides and use-of-force incidents in this state. There are some limited Federal Bureau Investigation (FBI) statistics. This bill will hold law enforcement accountable. This may help alleviate tensions between law enforcement and communities. It may also pave the way to a meaningful discussion of the interaction between law enforcement and communities and how it impacts the daily lives of both parties. Data collection and transparency is important.

Citizens want to have good police officers in this state. Currently, the Seattle Police Department is already collecting this type of information. Collecting this data will not only identify problems, but will help improve police training in this state.

(Opposed) None.

(Other) There is a suggestion to combine this bill with House Bill 2908, relating to creating a task force on this subject. There is work on the FBI level to add some of these data fields in the National Incident Base Reporting System. The appropriate sequence is that data needs to be collected first and then a task force should be created to analyze the data.

Persons Testifying: (In support) Representative Appleton, prime sponsor; Shankar Narayan, American Civil Liberties of Washington; Gloria Pitkin, Washington State Commission on Hispanic Affairs; and William Ostling.

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

Persons Signed In To Testify But Not Testifying: None.