**5066-S AMS WAGO S1284.3 - NOT FOR FLOOR USE**

**SSB 5066** - S AMD **97**

By Senator Wagoner

**NOT ADOPTED 02/23/2021**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 10.93 RCW to read as follows:

(1) Any identifiable on-duty Washington peace officer who witnesses another on-duty Washington peace officer engaging or attempting to engage in the excessive use of force against another person shall intervene when in a position to do so to end the excessive use of force or attempted excessive use of force, or to prevent the further use of excessive force. A peace officer shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force.

(2) Any identifiable on-duty Washington peace officer who observes any wrongdoing committed by another Washington peace officer, or has a good faith reasonable belief that another peace officer committed wrongdoing, shall report such wrongdoing to the officer's supervisor or other supervisory peace officer in accordance with the peace officer's employing agency's policies and procedures for reporting such acts committed by a peace officer.

(3) A member of a law enforcement agency shall not discipline or retaliate in any way against a peace officer for intervening in good faith as required by subsection (1) of this section or for reporting wrongdoing in good faith.

(4) A law enforcement agency shall send notice to the criminal justice training commission of any disciplinary decision resulting from a peace officer's failure to intervene or failure to report wrongdoing as required by this section to determine whether the officer's conduct may be grounds for suspension or revocation of certification under RCW 43.101.105.

(5) For purposes of this section:

(a) "Excessive force" means force that is clearly beyond that which is objectively reasonable under the circumstances.

(b) "Wrongdoing" means conduct that:

(i) Knowingly violates clearly established rights of any person while on duty; or

(ii) Constitutes a criminal act, whether on duty or off duty.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) By December 1, 2021, the Washington state criminal justice training commission, the Washington state patrol, the Washington association of sheriffs and police chiefs, and organizations representing state and local law enforcement officers shall develop a written model policy on the duty to intervene, consistent with the provisions of section 1 of this act.

(2) By June 1, 2022, every Washington law enforcement agency shall adopt and implement a written duty to intervene policy. The policy adopted may be the model policy developed under subsection (1) of this section. However, any policy adopted must, at a minimum, be consistent with the provisions of section 1 of this act.

(3) By January 31, 2022, the commission shall incorporate training on the duty to intervene in the basic law enforcement training curriculum. Existing peace officers must receive training on the duty to intervene by December 31, 2023.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

Notwithstanding any provisions of this chapter, the provisions of chapter . . ., Laws of 2021 (this act) and the implementation thereof do not constitute personnel matters, working conditions, or any other change that requires collective bargaining.

NEW SECTION. **Sec.**  To the extent that any provision of this act conflicts with any local regulation, ordinance, collective bargaining agreement, memorandum of understanding, policy, or practice, the provisions of this act prevail and the conflicting provisions are null and void. If the application of this section to a collective bargaining agreement in effect on the effective date of this section would result in impairing contractual obligations under that agreement, then the existing collective bargaining agreement prevails until such time as the agreement expires, renews, or is amended."

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On page 1, line 1 of the title, after "intervene;" strike the remainder of the title and insert "adding a new section to chapter 10.93 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 41.56 RCW; and creating a new section."

EFFECT: (1) Requires that the observed officer must be identifiable and on-duty before the observing officer is required to intervene.

(2) Clarifies good faith interveners and reporters are protected from retaliation.

(3) Clarifies the definitions of excessive force and wrongdoing.

(4) Clarifies the act applies to Washington peace officers.

(5) Clarifies that when the act impairs contractual obligations, the existing collective bargaining agreement prevails until such time as the agreement expires, is renewed, or is amended.

(6) Clarifies that the act does not constitute a change that requires collective bargaining.

(7) Amends the title.