

**E2SSB 5259** - H COMM AMD

By Committee on Public Safety

**NOT ADOPTED 04/06/2021**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that law  
4 enforcement transparency and accountability are vital in maintaining  
5 public trust. Data collection is one essential tool to allow the  
6 public, law enforcement, and policymakers to analyze the  
7 effectiveness of existing police practices, determine which policies  
8 and training work and do not work, and avoid unintended consequences  
9 by supporting policy decisions with clear and relevant data.

10 The legislature finds that creating a statewide data collection  
11 program that creates a publicly accessible database to track metrics  
12 will help to promote openness, transparency, and accountability,  
13 build stronger police-community relations, improve trust and  
14 confidence in policing services, evaluate specific areas of concern  
15 such as biased policing and excessive force, and ultimately improve  
16 the quality of policing services.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires  
19 otherwise.

20 (1) "Contractor" means the institution of higher education  
21 contracted with the office of the attorney general to implement the  
22 statewide use of force data program as provided in this chapter.

23 (2) "Great bodily harm" has the same meaning as in RCW 9A.04.110.

24 (3) "Institution of higher education" has the same meaning as in  
25 RCW 28B.92.030.

26 (4) "Law enforcement agency" or "agency" means any general  
27 authority Washington law enforcement agency and limited authority  
28 Washington law enforcement agency as those terms are defined in RCW  
29 10.93.020.

1 (5) "Substantial bodily harm" has the same meaning as in RCW  
2 9A.04.110.

3 NEW SECTION. **Sec. 3.** (1)(a) Subject to the availability of  
4 amounts appropriated for this specific purpose, the attorney  
5 general's office shall establish an advisory group to assist with the  
6 office's design, development, and implementation of a statewide use  
7 of force data program. Members are appointed by the attorney  
8 general's office and must consist of:

9 (i) At least three representatives from local nongovernmental  
10 organizations or advocacy groups that have a focus on or expertise in  
11 the use and role of data as it relates to interactions between law  
12 enforcement and the community;

13 (ii) At least three representatives from law enforcement agencies  
14 or organizations representing the interests of law enforcement in  
15 interacting and utilizing this data; and

16 (iii) At least one representative from the private sector or the  
17 public sector with experience in data collection programs, preferably  
18 law enforcement data collection.

19 (b) To ensure the advisory group has diverse and inclusive  
20 representation of those affected by its work, advisory group members  
21 whose participation in the advisory group may be hampered by  
22 financial hardship may apply for a stipend in an amount not to exceed  
23 \$100 for each day during which the member attends an official meeting  
24 of the advisory group or performs prescribed duties approved by the  
25 attorney general's office.

26 (2) By April 1, 2022, the advisory group shall submit to the  
27 attorney general its recommendations on the following elements:

28 (a) How to prioritize the implementation of the reporting,  
29 collection, and publication of the use of force data reports required  
30 in section 4(2) of this act;

31 (b) Additional incidents and data to be collected from law  
32 enforcement agencies on interactions between officers and the public,  
33 such as traffic stops, pedestrian stops, calls for services, arrests,  
34 vehicle pursuits, and disciplinary actions, as well as demographic  
35 information including race, ethnicity, and gender of a crime victim  
36 or victims. This recommendation should consider phased  
37 implementation, if necessary, based on current practices and  
38 available data as compared to additional practices and new data that  
39 would need to be implemented by law enforcement agencies;

1 (c) Recommend practices for law enforcement agencies to collect  
2 and report data to the contractor. To the greatest extent feasible,  
3 the reporting mechanisms for the program must include the opportunity  
4 for law enforcement agencies to submit the required data elements  
5 through incident reports or any other electronic means. The advisory  
6 group may also work to develop a standardized incident report that  
7 meets the data and reporting requirements of the statewide use of  
8 force data program for voluntary use by law enforcement agencies;

9 (d) Recommend practices for the public to report relevant  
10 information to the contractor directly, or its successor, including  
11 correcting misreported and otherwise incorrect data;

12 (e) Recommend practices for public, law enforcement, and academic  
13 access and use of program data that must include, at a minimum:

14 (i) Public access to deidentified raw and/or refined incident  
15 based data using an established open data standard, available online  
16 at no cost in a downloadable, machine-readable, nonproprietary  
17 format, redacted only as necessary to comply with the public records  
18 act (chapter 42.56 RCW) and the Washington state criminal records  
19 privacy act (chapter 10.97 RCW);

20 (ii) Publicly accessible online data dashboards that summarize  
21 and analyze the data, excluding personally identifiable information;

22 (iii) Interactive data visualization tools designed for law  
23 enforcement agencies and other entities to use the data for research,  
24 professional development, training, and management;

25 (iv) The ability to extract data from incident reports, or other  
26 electronic means, and officer narratives in order to standardize data  
27 across multiple agencies;

28 (v) Ensure protection and removal of all personally identifiable  
29 information of officers, subjects, and victims in any data or  
30 analyses that are publicly released; and

31 (vi) Semiannual reports, summarizing the data collected and any  
32 related analysis, published on the website and submitted to the  
33 legislature and governor by June 1st and December 1st of each year;

34 (f) Recommend practices for quality improvement, including  
35 periodically obtaining input from stakeholders about how the program  
36 can better meet the needs of the public and law enforcement;

37 (g) Recommend practices in the following areas:

38 (i) Analytical dashboards with individual officer details for use  
39 by law enforcement agencies as a risk management tool;

1 (ii) Agency level comparative dashboards for all law enforcement  
2 agencies in the state;

3 (iii) Incorporating available historical data to identify long-  
4 term trends and patterns; and

5 (iv) Analysis of data, using methodologies based in best  
6 practices or tested and validated in other jurisdictions, if  
7 possible, including, but not limited to, analysis of the data using  
8 legal algorithms based on available and applicable legal standards.

9 (3) (a) The office of the attorney general shall review the  
10 recommendations of the advisory group and approve or reject, in whole  
11 or in part, the recommendations. In reviewing the program  
12 recommendations, the office of the attorney general shall consider:

13 (i) Available funding to achieve the recommendations;

14 (ii) Prioritizing the implementation of the reporting,  
15 collection, and publication of the use of force data reports in  
16 section 4(2) of this act;

17 (iii) The interests of the public in accessing information in a  
18 transparent and expedient manner. In considering the interests of the  
19 public, the advisory board shall accept and consider comments from  
20 impacted family members or their designees;

21 (iv) The institutional operations and demands of law enforcement  
22 agencies through input and comments from the criminal justice  
23 training center and local law enforcement agencies.

24 (b) For any recommendation that was rejected, in part or in full,  
25 the advisory group may submit revised recommendations for  
26 consideration by the office of the attorney general in accordance  
27 with any deadlines established by the office. The office of the  
28 attorney general may also approve recommendations subject to the  
29 legislature appropriating the funding necessary for their  
30 implementation.

31 (c) The office of the attorney general may not approve any  
32 recommendation that requires any law enforcement agency to disclose  
33 information that would jeopardize an active criminal investigation,  
34 confidential informant, or intelligence information.

35 (4) The approved recommendations and the requirements contained  
36 in section 4 of this act constitute the statewide use of force data  
37 program.

38 (5) This section expires January 1, 2023.

1        NEW SECTION.    **Sec. 4.**    (1) Each law enforcement agency in the  
2 state is required to report each incident where a law enforcement  
3 officer employed by the agency used force and:

4        (a) A fatality occurred in connection with the use of force;

5        (b) Great bodily harm occurred in connection with the use of  
6 force;

7        (c) Substantial bodily harm occurred in connection with the use  
8 of force; or

9        (d) A law enforcement officer:

10        (i) Discharged a firearm at or in the direction of a person;

11        (ii) Pointed a firearm at a person;

12        (iii) Used a chokehold or vascular neck restraint;

13        (iv) Used an electronic control weapon including, but not limited  
14 to, a taser, against a person;

15        (v) Used oleoresin capsicum spray against a person;

16        (vi) Discharged a less lethal shotgun or other impact munitions  
17 at or in the direction of a person;

18        (vii) Struck a person using an impact weapon or instrument  
19 including, but not limited to, a club, baton, or flashlight;

20        (viii) Used any part of their body to physically strike a person  
21 including, but not limited to, punching, kicking, slapping, or using  
22 closed fists or feet;

23        (ix) Used a vehicle to intentionally strike a person or vehicle;  
24 or

25        (x) Deployed a canine by releasing it from the physical control  
26 of the law enforcement officer or had under the law enforcement  
27 officer's control a canine that bites a person.

28        (2) Each report required in subsection (1) of this section must  
29 include the following information:

30        (a) The date and time of the incident;

31        (b) The location of the incident;

32        (c) The agency or agencies employing the law enforcement  
33 officers;

34        (d) The type of force used by the law enforcement officer;

35        (e) The type of injury to the person against whom force was used,  
36 if any;

37        (f) The type of injury to the law enforcement officer, if any;

38        (g) Whether the person against whom force was used was armed or  
39 unarmed;

1 (h) Whether the person against whom force was used was believed  
2 to be armed;

3 (i) The type of weapon the person against whom force was used was  
4 armed with, if any;

5 (j) The age, gender, race, and ethnicity of the person against  
6 whom force was used, if known;

7 (k) The tribal affiliation of the person against whom force was  
8 used, if applicable and known;

9 (l) Whether the person against whom force was used exhibited any  
10 signs associated with a potential mental health condition or use of a  
11 controlled substance or alcohol based on the observation of the law  
12 enforcement officer;

13 (m) The name, age, gender, race, and ethnicity of the law  
14 enforcement officer;

15 (n) The law enforcement officer's years of service;

16 (o) The reason for the initial contact between the person against  
17 whom force was used and the law enforcement officer;

18 (p) Whether any minors were present at the scene of the incident,  
19 if known;

20 (q) The entity conducting the independent investigation of the  
21 incident, if applicable;

22 (r) Whether dashboard or body worn camera footage was recorded  
23 for an incident;

24 (s) The number of officers who were present when force was used;  
25 and

26 (t) The number of suspects who were present when force was used.

27 (3) Each law enforcement agency must also report any additional  
28 incidents and data required by the statewide use of force data  
29 program developed in section 3 of this act.

30 (4) All law enforcement agencies shall submit the reports  
31 required by this section in accordance with the requirements of the  
32 statewide use of force data program no later than three months after  
33 the office of the attorney general determines that the system  
34 procured in section 5 of this act can accept law enforcement agency  
35 reports. Reports must be made in the format and time frame  
36 established in the statewide use of force data program.

37 (5) Notwithstanding any other provision of this act, except as  
38 otherwise mutually agreed to between the contractor and the law  
39 enforcement agency, a law enforcement agency has satisfied its  
40 reporting obligations pursuant to this act by submitting relevant

1 information to the contractor. Nothing in this section prohibits the  
2 contractor from contacting the law enforcement agency to seek  
3 additional information or clarification of relevant data.

4 NEW SECTION. **Sec. 5.** (1) Subject to the availability of amounts  
5 appropriated for this specific purpose, the office of the attorney  
6 general must engage in a competitive procurement to contract with an  
7 institution of higher education to implement the statewide use of  
8 force data program. The primary purpose of the contract is to develop  
9 a system for law enforcement agencies to report, collect, and publish  
10 the use of force data reports required in section 4 of this act.

11 (2) The request for proposal or other procurement method should  
12 encourage collaboration with other public and private institutions,  
13 businesses, and organizations with significant expertise and  
14 experience in collecting, tracking, and reporting data on law  
15 enforcement interactions with the public.

16 (3) Members and representatives of entities participating in the  
17 advisory group established in section 3 of this act may not  
18 participate or bid in the competitive procurement.

19 (4) The advisory group, or designated members of the group, may  
20 participate in the procurement process through the development of the  
21 request for proposal and the review and evaluation of responsive  
22 bidders.

23 (5) The contract must require the successful bidder to provide  
24 appropriate training to its staff and subcontractor staff, including  
25 training on racial equity issues.

26 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
27 constitute a new chapter in Title 10 RCW."

28 Correct the title.

EFFECT: (1) Requires each law enforcement agency to submit use of  
force reports in accordance with the requirements of the statewide  
use of force data program, rather than providing that reports must be  
made in the format and time frame established in the program.

(2) Specifies that a law enforcement agency's use of force report  
must identify whether minors were present at the scene of the  
incident, if that information is known, and the involved law  
enforcement officer's name.

(3) Requires the advisory group for the program to recommend  
practices for the following:

(a) Quality improvement, including periodically obtaining input from stakeholders about how the program can better meet the needs of the public and law enforcement;

(b) Analysis of data, including, if possible, analysis using legal algorithms;

(c) Public access to deidentified raw and/or refined incident-based data using an established open data standard, available online at no cost in a downloadable, machine-readable, nonproprietary format, redacted only as necessary to comply with the public records act and the Washington state criminal records privacy act; and

(d) Public access to online data dashboards that summarize and analyze data, excluding personally identifiable information.

(4) Requires, rather than authorizes, the advisory group to recommend practices in the areas of analytical dashboards, agency level comparative dashboards, and incorporation of historical data.

(5) Requires the advocacy group for the program to contain the following:

(a) At least three representatives from local nongovernmental organizations or advocacy groups with a focus on or expertise in the use and role of data as it relates to interactions between law enforcement and the community, rather than organizations or groups that are focused on the interactions between law enforcement and the community; and

(b) At least three representatives from law enforcement agencies or organizations representing the interests of law enforcement in, rather than by, interacting and utilizing this data.

(6) Specifies that a law enforcement agency satisfies its reporting obligations to the program by submitting relevant information to the contractor, except as otherwise agreed to by the contractor and the agency.

(7) Prohibits the office of the attorney general from approving any recommendation that would disclose information that would jeopardize an active criminal investigation, confidential informant, or intelligence information.

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