

ESB 5919 - H COMM AMD

By Committee on Public Safety

ADOPTED AS AMENDED 03/04/2022

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

3 **"Sec. 1.** RCW 10.116.060 and 2021 c 320 s 7 are each amended to
4 read as follows:

5 (1) A peace officer may not engage in a vehicular pursuit,
6 unless:

7 (a) ~~((i))~~ There is ~~((probable cause to believe))~~ reasonable
8 suspicion that a person in the vehicle has committed or is committing
9 a violent offense ~~((or sex offense))~~ as defined in RCW 9.94A.030,
10 ~~((or))~~ an escape under chapter 9A.76 RCW ~~((or))~~ or

11 ~~((ii) There is reasonable suspicion a person in the vehicle has~~
12 ~~committed or is committing))~~ a driving under the influence offense
13 under RCW 46.61.502;

14 (b) ~~((The pursuit is necessary for the purpose of identifying or~~
15 ~~apprehending the person;~~

16 ~~(c))~~ The person poses ~~((an imminent threat to the safety of~~
17 ~~others))~~ a threat of serious injury or death to another person, and
18 the safety risks of failing to apprehend or identify the person are
19 considered to be greater than the safety risks of the vehicular
20 pursuit under the circumstances; ~~((and~~

21 ~~(d)(i) Except as provided in (d)(ii) of this subsection, the~~
22 ~~officer has received authorization to engage in the pursuit from))~~

23 (c) The pursuing officer notifies a supervising officer ((and
24 there)) immediately upon initiating the vehicular pursuit;

25 (d) There is supervisory ((control)) oversight of the pursuit((-
26 The officer in consultation with the)) by a supervising officer
27 ((must consider alternatives to the vehicular pursuit. The supervisor
28 must consider)), and the supervising officer evaluates the
29 justification for the vehicular pursuit and other safety
30 considerations, including but not limited to speed, weather, traffic,
31 road conditions, and the known presence of minors in the vehicle((-

1 and the vehicular pursuit must be terminated if any of the
2 requirements of this subsection are not met;

3 (ii) For those jurisdictions with fewer than 10 commissioned
4 officers, if a supervisor is not on duty at the time, the officer
5 will request the on-call supervisor be notified of the pursuit
6 according to the agency's procedures. The officer must consider),
7 and considers alternatives to the vehicular pursuit ((, the
8 justification for the vehicular pursuit, and other safety
9 considerations, including but not limited to speed, weather, traffic,
10 road conditions, and the known presence of minors in the vehicle. The
11 officer must terminate the vehicular pursuit if any of the
12 requirements of this subsection are not met.

13 (2) A pursuing officer shall comply);

14 (e) The pursuing officer and supervising officer comply with any
15 agency procedures for designating the primary pursuit vehicle and
16 determining the appropriate number of vehicles permitted to
17 participate in the vehicular pursuit ((and comply));

18 (f) The supervising officer, the pursuing officer, or dispatcher
19 notifies other law enforcement agencies or surrounding jurisdictions
20 that may be impacted by the vehicular pursuit or called upon to
21 assist with the vehicular pursuit, and the pursuing officer and
22 supervising officer comply with any agency procedures for
23 coordinating operations with other jurisdictions, including available
24 tribal police departments when applicable;

25 (g) The pursuing officer is able to directly communicate with
26 other officers engaging in the pursuit, the supervising officer, and
27 the dispatch agency, such as being on a common radio channel or
28 having other direct means of communication;

29 (h) As soon as practicable after initiating a vehicular pursuit,
30 the pursuing officer, supervising officer, or responsible agency
31 develops a plan to end the pursuit through the use of available
32 pursuit intervention options, such as the use of the pursuit
33 intervention technique, deployment of spike strips or other tire
34 deflation devices, or other department-authorized pursuit
35 intervention tactics; and

36 (i) The pursuing officer has completed an emergency vehicle
37 operator's course, has completed updated emergency vehicle operator
38 training in the previous two years, and is certified in at least one
39 pursuit intervention option.

1 (2) A vehicular pursuit not meeting the requirements under
2 subsection (1) of this section must be terminated.

3 (3) A peace officer may not fire a weapon upon a moving vehicle
4 unless necessary to protect against an imminent threat of serious
5 physical harm resulting from the operator's or a passenger's use of a
6 deadly weapon. For the purposes of this subsection, a vehicle is not
7 considered a deadly weapon unless the operator is using the vehicle
8 as a deadly weapon and no other reasonable means to avoid potential
9 serious harm are immediately available to the officer.

10 (4) For purposes of this section, "vehicular pursuit" means an
11 attempt by a uniformed peace officer in a vehicle equipped with
12 emergency lights and a siren to stop a moving vehicle where the
13 operator of the moving vehicle appears to be aware that the officer
14 is signaling the operator to stop the vehicle and the operator of the
15 moving vehicle appears to be willfully resisting or ignoring the
16 officer's attempt to stop the vehicle by increasing vehicle speed,
17 making evasive maneuvers, or operating the vehicle in a reckless
18 manner that endangers the safety of the community or the officer.

19 NEW SECTION. Sec. 2. This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect immediately."

23 Correct the title.

EFFECT: (1) Removes the intent section. Removes all amendatory provisions pertaining to the standard for use of force by peace officers.

(2) Modifies the restrictions on vehicular pursuits by: Limiting the authority to engage in pursuits to when there is reasonable suspicion that a person in the vehicle has committed or is committing a violent offense, escape offense, or driving under the influence offense (rather than reasonable suspicion that a person in the vehicle has committed or is committing any criminal offense where the public safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances, as provided in the underlying bill); and prohibiting pursuits unless a person in the vehicle poses a threat of serious injury or death to another person, (rather than poses a public safety risk, as provided in the underlying bill, or an imminent threat to the safety of others, as provided in current law).

(3) Modifies the supervisory requirements for vehicular pursuits by: Requiring the pursuing officer to notify a supervising officer immediately upon initiating a pursuit (rather than requiring the pursuing officer to receive authorization to continue the pursuit from a supervising officer, as provided in the underlying bill);

requiring supervisory oversight of the pursuit (rather than supervisory control of the pursuit, as provided in current law and the underlying bill); and removing current law alternatives for when a supervisor is not on duty, thereby requiring supervisory oversight in all pursuits.

(4) Adds the following requirements for engaging in a vehicular pursuit: Requires the supervising officer, the pursuing officer, or dispatcher to notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit or called upon to assist with the vehicular pursuit; requires the pursuing officer to be able to directly communicate with other officers engaging in the pursuit, the supervising officer, and the dispatch agency, such as being on a common radio channel or having other direct means of communication; requires the pursuing officer, supervising officer, or responsible agency, as soon as practicable after initiating a vehicular pursuit, to develop a plan to end the pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or other tire deflation devices, or other department-authorized pursuit intervention tactics; and specifies that the pursuing officer must have completed an emergency vehicle operator's course, have completed updated emergency vehicle operator training in the previous two years, and be certified in at least one pursuit intervention option.

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