

ESHB 1054 - S AMD 493
By Senator Pedersen

ADOPTED AS AMENDED 04/06/2021

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

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Law enforcement agency" includes any "general authority
7 Washington law enforcement agency" and any "limited authority
8 Washington law enforcement agency," as those terms are defined in RCW
9 10.93.020, and any state or local agency providing or otherwise
10 responsible for the custody, safety, and security of adults or
11 juveniles incarcerated in correctional, jail, or detention
12 facilities. "Law enforcement agency" does not include the national
13 guard or state guard under Title 38 RCW or any other division of the
14 United States armed forces.

15 (2) "Peace officer" includes any "general authority Washington
16 peace officer," "limited authority Washington peace officer," and
17 "specially commissioned Washington peace officer" as those terms are
18 defined in RCW 10.93.020, and any employee, whether part-time or
19 full-time, of a jail, correctional, or detention facility who is
20 responsible for the custody, safety, and security of adult or
21 juvenile persons confined in the facility.

22 NEW SECTION. **Sec. 2.** (1) A peace officer may not use a
23 chokehold or neck restraint on another person in the course of his or
24 her duties as a peace officer.

25 (2) Any policies pertaining to the use of force adopted by law
26 enforcement agencies must be consistent with this section.

27 (3) For the purposes of this section:

28 (a) "Chokehold" means the intentional application of direct
29 pressure to a person's trachea or windpipe for the purpose of
30 restricting another person's airway.

1 (b) "Neck restraint" refers to any vascular neck restraint or
2 similar restraint, hold, or other tactic in which pressure is applied
3 to the neck for the purpose of constricting blood flow.

4 NEW SECTION. **Sec. 3.** (1) The criminal justice training
5 commission shall convene a work group to develop a model policy for
6 the training and use of canine teams.

7 (2) The criminal justice training commission must ensure that the
8 work group is equally represented between community and law
9 enforcement stakeholders, including the following: Families who have
10 lost loved ones as a result of violent interactions with law
11 enforcement; an organization advocating for civil rights; a statewide
12 organization advocating for Black Americans; a statewide organization
13 advocating for Latinos; a statewide organization advocating for Asian
14 Americans, Pacific Islanders, and Native Hawaiians; a federally
15 recognized tribe located in Washington state; a community
16 organization from eastern Washington working on police
17 accountability; a community organization from western Washington
18 working on police accountability; a community organization serving
19 persons who are unhoused; the faith-based community with advocacy on
20 police accountability; an emergency room doctor with relevant
21 experience; Washington association of sheriffs and police chiefs;
22 Washington state patrol; Washington fraternal order of police;
23 Washington council of police and sheriffs; Washington state patrol
24 troopers association; council of metropolitan police and sheriffs;
25 teamsters local 117; and Washington state police canine association.

26 (3) The model policy work group shall consider:

27 (a) Training curriculum, including the history of race and
28 policing;

29 (b) Circumstances where the deployment of a canine may not be
30 appropriate;

31 (c) Circumstances where deployment of a canine on leash may be
32 appropriate;

33 (d) Strategies for reducing the overall rate of canine bites;

34 (e) Circumstances where a canine handler should consider the use
35 of tactics other than deploying a canine;

36 (f) Explicitly prohibiting the use of canines for crowd control
37 purposes;

38 (g) Canine reporting protocols;

1 (h) Circumstances where the use of voluntary canines and canine
2 handlers may be appropriate; and

3 (i) Identifying circumstances that would warrant the
4 decertification of canine teams.

5 (4) The criminal justice training commission shall publish the
6 model policy on its website by January 1, 2022.

7 (5) This section expires July 1, 2022.

8 NEW SECTION. **Sec. 4.** (1) A law enforcement agency may not use
9 or authorize its peace officers or other employees to use tear gas
10 unless necessary to alleviate a present risk of serious harm posed by
11 a: (a) Riot inside a correctional, jail, or detention facility; (b)
12 barricaded subject; or (c) hostage situation.

13 (2) Prior to deploying tear gas as authorized under subsection
14 (1) of this section, the officer or employee shall:

15 (a) Exhaust alternatives to the use of tear gas that are
16 available and appropriate under the circumstances;

17 (b) Obtain authorization to use tear gas from the chief law
18 enforcement officer, who must determine whether the present
19 circumstances warrant the use of tear gas and whether available and
20 appropriate alternatives have been exhausted as provided under this
21 section;

22 (c) Announce to the subject or subjects the intent to use tear
23 gas;

24 (d) Allow sufficient time and space for the subject or subjects
25 to comply with the officer's or employee's directives; and

26 (e) Announce to the subject or subjects for a second time,
27 immediately prior to deploying tear gas, the intent to use tear gas.

28 (3) For the purposes of this section:

29 (a) "Barricaded subject" means an individual who is the focus of
30 a law enforcement intervention effort, has taken a position in a
31 physical location that does not allow immediate law enforcement
32 access, and is refusing law enforcement orders to exit.

33 (b) "Chief law enforcement officer" means the chief law
34 enforcement officer of the law enforcement agency, including: The
35 sheriff or chief for a general authority Washington law enforcement
36 agency; and the executive head of the department or agency for a
37 limited authority Washington law enforcement agency, such as the
38 secretary of corrections for the department of corrections.

1 (c) "Hostage situation" means a scenario in which a person is
2 being held against his or her will by an armed, potentially armed, or
3 otherwise dangerous suspect.

4 (d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene
5 malononitrile (CS), and any similar chemical irritant dispersed in
6 the air for the purpose of producing temporary physical discomfort or
7 permanent injury, except "tear gas" does not include oleoresin
8 capsicum (OC).

9 NEW SECTION. **Sec. 5.** (1) A law enforcement agency may not
10 acquire or use any military equipment. Any law enforcement agency in
11 possession of military equipment as of the effective date of this
12 section shall return the equipment to the federal agency from which
13 it was acquired, if applicable, or destroy the equipment by December
14 31, 2022.

15 (2) (a) Each law enforcement agency shall compile an inventory of
16 military equipment possessed by the agency, including the proposed
17 use of the equipment, estimated number of times the equipment has
18 been used in the prior year, and whether such use is necessary for
19 the operation and safety of the agency or some other public safety
20 purpose. The agency shall provide the inventory to the Washington
21 association of sheriffs and police chiefs no later than November 1,
22 2021.

23 (b) The Washington association of sheriffs and police chiefs
24 shall summarize the inventory information from each law enforcement
25 agency and provide a report to the governor and the appropriate
26 committees of the legislature no later than December 31, 2021.

27 (3) For the purposes of this section:

28 (a) "Military equipment" means firearms and ammunition of .50
29 caliber or greater, machine guns, armed helicopters, armed or armored
30 drones, armed vessels, armed vehicles, armed aircraft, tanks, mine
31 resistant ambush protected vehicles, long range acoustic hailing
32 devices, rockets, rocket launchers, bayonets, grenades, missiles,
33 directed energy systems, and electromagnetic spectrum weapons.

34 (b) "Grenade" refers to any explosive grenade designed to injure
35 or kill subjects, such as a fragmentation grenade or antitank
36 grenade, or any incendiary grenade designed to produce intense heat
37 or fire. "Grenade" does not include other nonexplosive grenades
38 designed to temporarily incapacitate or disorient subjects without

1 causing permanent injury, such as a stun grenade, sting grenade,
2 smoke grenade, tear gas grenade, or blast ball.

3 (4) This section does not prohibit a law enforcement agency from
4 participating in a federal military equipment surplus program,
5 provided that any equipment acquired through the program does not
6 constitute military equipment. This may include, for example: Medical
7 supplies; hospital and health care equipment; office supplies,
8 furniture, and equipment; school supplies; warehousing equipment;
9 unarmed vehicles and vessels; conducted energy weapons; public
10 address systems; scientific equipment; and protective gear and
11 weather gear.

12 NEW SECTION. **Sec. 6.** All law enforcement agencies shall adopt
13 policies and procedures to ensure that uniformed peace officers while
14 on duty and in the performance of their official duties are
15 reasonably identifiable. For purposes of this section, "reasonably
16 identifiable" means that the peace officer's uniform clearly displays
17 the officer's name or other information that members of the public
18 can see and the agency can use to identify the peace officer.

19 NEW SECTION. **Sec. 7.** (1) A peace officer may not engage in a
20 vehicular pursuit, unless:

21 (a)(i) There is probable cause to believe that a person in the
22 vehicle has committed or is committing a violent offense or sex
23 offense as defined in RCW 9.94A.030, or an escape under chapter 9A.76
24 RCW; or

25 (ii) There is reasonable suspicion a person in the vehicle has
26 committed or is committing a driving under the influence offense
27 under RCW 46.61.502;

28 (b) The pursuit is necessary for the purpose of identifying or
29 apprehending the person;

30 (c) The person poses an imminent threat to the safety of others
31 and the safety risks of failing to apprehend or identify the person
32 are considered to be greater than the safety risks of the vehicular
33 pursuit under the circumstances; and

34 (d)(i) Except as provided in (d)(ii) of this subsection, the
35 officer has received authorization to engage in the pursuit from a
36 supervising officer and there is supervisory control of the pursuit.
37 The officer in consultation with the supervising officer must
38 consider alternatives to the vehicular pursuit. The supervisor must

1 consider the justification for the vehicular pursuit and other safety
2 considerations, including but not limited to speed, weather, traffic,
3 road conditions, and the known presence of minors in the vehicle, and
4 the vehicular pursuit must be terminated if any of the requirements
5 of this subsection are not met;

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

16 (2) A pursuing officer shall comply with any agency procedures
17 for designating the primary pursuit vehicle and determining the
18 appropriate number of vehicles permitted to participate in the
19 vehicular pursuit and comply with any agency procedures for
20 coordinating operations with other jurisdictions, including available
21 tribal police departments when applicable.

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

29 (4) For purposes of this section, "vehicular pursuit" means an
30 attempt by a uniformed peace officer in a vehicle equipped with
31 emergency lights and a siren to stop a moving vehicle where the
32 operator of the moving vehicle appears to be aware that the officer
33 is signaling the operator to stop the vehicle and the operator of the
34 moving vehicle appears to be willfully resisting or ignoring the
35 officer's attempt to stop the vehicle by increasing vehicle speed,
36 making evasive maneuvers, or operating the vehicle in a reckless
37 manner that endangers the safety of the community or the officer.

38 **Sec. 8.** RCW 10.31.040 and 2010 c 8 s 1030 are each amended to
39 read as follows:

1 (1) To make an arrest in criminal actions, the officer may break
2 open any outer or inner door, or windows of a dwelling house or other
3 building, or any other (~~inclosure~~ [enclosure]) enclosure, if, after
4 notice of his or her office and purpose, he or she be refused
5 admittance.

6 (2) An officer may not seek and a court may not issue a search or
7 arrest warrant granting an express exception to the requirement for
8 the officer to provide notice of his or her office and purpose when
9 executing the warrant.

10 NEW SECTION. **Sec. 9.** RCW 43.101.226 (Vehicular pursuits—Model
11 policy) and 2003 c 37 s 2 are each repealed.

12 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act
13 constitute a new chapter in Title 10 RCW."

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14 On page 1, line 2 of the title, after "officers;" strike the
15 remainder of the title and insert "amending RCW 10.31.040; adding a
16 new chapter to Title 10 RCW; repealing RCW 43.101.226; and providing
17 an expiration date."

EFFECT: Limits the use of tear gas during a riot to a riot that occurs inside a correctional, jail, or detention facility; defines barricaded subject and hostage situation; requires each law enforcement agency to compile an inventory of military equipment possessed by the agency and provide the inventory to WASPC no later than November 1, 2021; requires WASPC to summarize inventory information from agencies and submit a report to the legislature and governor no later than December 31, 2021. Adjusts requirements for vehicular pursuits, including: Authorizing a vehicular pursuit when there is probable cause to believe a person has committed an escape or when there is reasonable suspicion a person has committed a driving under the influence offense; requires the person being pursued to pose an imminent threat to the safety of others; adjusts language regarding authorization and consultation of a supervising officer; requires the officer to comply with agency procedures for coordinating with other pursuing officers and jurisdictions; and defines vehicular pursuit.

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