
SECOND SUBSTITUTE SENATE BILL 5259

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Nobles, Carlyle, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Pedersen, Randall, Robinson, Saldaña, Stanford, Wellman, and Wilson, C.; by request of Attorney General)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to requiring reporting, collecting, and
2 publishing information regarding law enforcement interactions with
3 the communities they serve; adding a new chapter to Title 10 RCW; and
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

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

10 (4) "Law enforcement agency" or "agency" means any general
11 authority Washington law enforcement agency and limited authority
12 Washington law enforcement agency as those terms are defined in RCW
13 10.93.020.

14 (5) "Substantial bodily harm" has the same meaning as in RCW
15 9A.04.110.

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

22 (i) At least three representatives from local nongovernmental
23 organizations or advocacy groups that are focused on the interactions
24 between law enforcement and the community;

25 (ii) At least three representatives from law enforcement agencies
26 or organizations representing the interests of law enforcement by
27 interacting and utilizing this data; and

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

31 (b) To ensure the advisory group has diverse and inclusive
32 representation of those affected by its work, advisory group members
33 whose participation in the advisory group may be hampered by
34 financial hardship may apply for a stipend in an amount not to exceed
35 \$100 for each day during which the member attends an official meeting
36 of the advisory group or performs prescribed duties approved by the
37 attorney general's office.

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

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

4 (b) Additional incidents and data to be collected from law
5 enforcement agencies on interactions between officers and the public,
6 such as traffic stops, pedestrian stops, calls for services, arrests,
7 vehicle pursuits, and disciplinary actions, as well as demographic
8 information including race, ethnicity, and gender of a crime victim
9 or victims. This recommendation should consider phased
10 implementation, if necessary, based on current practices and
11 available data as compared to additional practices and new data that
12 would need to be implemented by law enforcement agencies;

13 (c) Recommend practices for law enforcement agencies to collect
14 and report data to the contractor. To the greatest extent feasible,
15 the reporting mechanisms for the program must include the opportunity
16 for law enforcement agencies to submit the required data elements
17 through incident reports or any other electronic means. The advisory
18 group may also work to develop a standardized incident report that
19 meets the data and reporting requirements of the statewide use of
20 force data program for voluntary use by law enforcement agencies;

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

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

26 (i) Public access to deidentified data and analysis in a
27 searchable format published on a website by the contractor, including
28 dashboards produced for agency use and methodologies employed in
29 meeting requirements identified in this section, as long as any
30 publication of those materials does not include personally
31 identifiable information;

32 (ii) Access to deidentified raw and/or refined data for academic
33 research;

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

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

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

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

7 (f) The advisory group may make recommendations in the following
8 areas if time and resources allow:

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

11 (ii) Agency level comparative dashboards for all law enforcement
12 agencies in the state; and

13 (iii) Incorporating available historical data to identify long-
14 term trends and patterns.

15 (3)(a) The office of the attorney general shall review the
16 recommendations of the advisory group and approve or reject, in whole
17 or in part, the recommendations. In reviewing the program
18 recommendations, the office of the attorney general shall consider:

19 (i) Available funding to achieve the recommendations;

20 (ii) Prioritizing the implementation of the reporting,
21 collection, and publication of the use of force data reports in
22 section 4(2) of this act;

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

27 (iv) The institutional operations and demands of law enforcement
28 agencies through input and comments from the criminal justice
29 training center and local law enforcement agencies.

30 (b) For any recommendation that was rejected, in part or in full,
31 the advisory group may submit revised recommendations for
32 consideration by the office of the attorney general in accordance
33 with any deadlines established by the office. The office of the
34 attorney general may also approve recommendations subject to the
35 legislature appropriating the funding necessary for their
36 implementation.

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

40 (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 age, gender, race, and ethnicity of the law enforcement
14 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 (q) The entity conducting the independent investigation of the
20 incident, if applicable;
- 21 (r) Whether dashboard or body worn camera footage was recorded
22 for an incident;
- 23 (s) The number of officers who were present when force was used;
24 and
- 25 (t) The number of suspects who were present when force was used.
- 26 (3) Each law enforcement agency must also report any additional
27 incidents and data required by the statewide use of force data
28 program developed in section 3 of this act.
- 29 (4) All law enforcement agencies shall submit the reports
30 required by this section no later than three months after the office
31 of the attorney general determines that the system procured in
32 section 5 of this act can accept law enforcement agency reports.
33 Reports must be made in the format and time frame established in the
34 statewide use of force data program.

35 NEW SECTION. **Sec. 5.** (1) Subject to the availability of amounts
36 appropriated for this specific purpose, the office of the attorney
37 general must engage in a competitive procurement to contract with an
38 institution of higher education to implement the statewide use of
39 force data program. The primary purpose of the contract is to develop

1 a system for law enforcement agencies to report, collect, and publish
2 the use of force data reports required in section 4 of this act.

3 (2) The request for proposal or other procurement method should
4 encourage collaboration with other public and private institutions,
5 businesses, and organizations with significant expertise and
6 experience in collecting, tracking, and reporting data on law
7 enforcement interactions with the public.

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

11 (4) The advisory group, or designated members of the group, may
12 participate in the procurement process through the development of the
13 request for proposal and the review and evaluation of responsive
14 bidders. The office of the attorney general is the sole authority to
15 select and award the contract to the institution of higher education.

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

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

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