

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1054

Chapter 320, Laws of 2021

67th Legislature
2021 Regular Session

PEACE OFFICERS—TACTICS AND EQUIPMENT

EFFECTIVE DATE: July 25, 2021

Passed by the House April 23, 2021
Yeas 55 Nays 42

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 23, 2021
Yeas 28 Nays 20

DENNY HECK

President of the Senate

Approved May 18, 2021 11:45 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1054** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 18, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1054

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By House Public Safety (originally sponsored by Representatives J. Johnson, Entenman, Dolan, Ryu, Berry, Simmons, Bateman, Kloba, Lekanoff, Duerr, Fitzgibbon, Slatte, Wylie, Ramos, Berg, Tharinger, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Valdez, Callan, Hackney, Morgan, Chopp, Cody, Ormsby, Taylor, Frame, Santos, Macri, Davis, Pollet, Bergquist, and Harris-Talley)

READ FIRST TIME 01/26/21.

1 AN ACT Relating to establishing requirements for tactics and
2 equipment used by peace officers; amending RCW 10.31.040; adding a
3 new chapter to Title 10 RCW; repealing RCW 43.101.226; and providing
4 an expiration date.

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

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

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

18 (2) "Peace officer" includes any "general authority Washington
19 peace officer," "limited authority Washington peace officer," and
20 "specially commissioned Washington peace officer" as those terms are
21 defined in RCW 10.93.020, and any employee, whether part-time or

1 full-time, of a jail, correctional, or detention facility who is
2 responsible for the custody, safety, and security of adult or
3 juvenile persons confined in the facility.

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

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

9 (3) For the purposes of this section:

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

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

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

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

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

- 1 (a) Training curriculum, including the history of race and
2 policing;
- 3 (b) Circumstances where the deployment of a canine may not be
4 appropriate;
- 5 (c) Circumstances where deployment of a canine on leash may be
6 appropriate;
- 7 (d) Strategies for reducing the overall rate of canine bites;
- 8 (e) Circumstances where a canine handler should consider the use
9 of tactics other than deploying a canine;
- 10 (f) Explicitly prohibiting the use of canines for crowd control
11 purposes;
- 12 (g) Canine reporting protocols;
- 13 (h) Circumstances where the use of voluntary canines and canine
14 handlers may be appropriate; and
- 15 (i) Identifying circumstances that would warrant the
16 decertification of canine teams.
- 17 (4) The criminal justice training commission shall publish the
18 model policy on its website by January 1, 2022.
- 19 (5) This section expires July 1, 2022.

20 NEW SECTION. **Sec. 4.** (1) A law enforcement agency may not use
21 or authorize its peace officers or other employees to use tear gas
22 unless necessary to alleviate a present risk of serious harm posed by
23 a: (a) Riot; (b) barricaded subject; or (c) hostage situation.

24 (2) Prior to using tear gas as authorized under subsection (1) of
25 this section, the officer or employee shall:

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

28 (b) Obtain authorization to use tear gas from a supervising
29 officer, who must determine whether the present circumstances warrant
30 the use of tear gas and whether available and appropriate
31 alternatives have been exhausted as provided under this section;

32 (c) Announce to the subject or subjects the intent to use tear
33 gas; and

34 (d) Allow sufficient time and space for the subject or subjects
35 to comply with the officer's or employee's directives.

36 (3) In the case of a riot outside of a correctional, jail, or
37 detention facility, the officer or employee may use tear gas only
38 after: (a) Receiving authorization from the highest elected official

1 of the jurisdiction in which the tear gas is to be used, and (b)
2 meeting the requirements of subsection (2) of this section.

3 (4) For the purposes of this section:

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

8 (b) "Highest elected official" means the county executive in
9 those charter counties with an elective office of county executive,
10 however designated, and in the case of other counties, the chair of
11 the county legislative authority. In the case of cities and towns, it
12 means the mayor, regardless of whether the mayor is directly elected,
13 selected by the council or legislative body pursuant to RCW 35.18.190
14 or 35A.13.030, or selected according to a process in an established
15 city charter. In the case of actions by the Washington state patrol,
16 it means the governor.

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

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

25 NEW SECTION. **Sec. 5.** (1) A law enforcement agency may not
26 acquire or use any military equipment. Any law enforcement agency in
27 possession of military equipment as of the effective date of this
28 section shall return the equipment to the federal agency from which
29 it was acquired, if applicable, or destroy the equipment by December
30 31, 2022.

31 (2)(a) Each law enforcement agency shall compile an inventory of
32 military equipment possessed by the agency, including the proposed
33 use of the equipment, estimated number of times the equipment has
34 been used in the prior year, and whether such use is necessary for
35 the operation and safety of the agency or some other public safety
36 purpose. The agency shall provide the inventory to the Washington
37 association of sheriffs and police chiefs no later than November 1,
38 2021.

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

5 (3) For the purposes of this section:

6 (a) "Military equipment" means firearms and ammunition of .50
7 caliber or greater, machine guns, armed helicopters, armed or armored
8 drones, armed vessels, armed vehicles, armed aircraft, tanks, long
9 range acoustic hailing devices, rockets, rocket launchers, bayonets,
10 grenades, missiles, directed energy systems, and electromagnetic
11 spectrum weapons.

12 (b) "Grenade" refers to any explosive grenade designed to injure
13 or kill subjects, such as a fragmentation grenade or antitank
14 grenade, or any incendiary grenade designed to produce intense heat
15 or fire. "Grenade" does not include other nonexplosive grenades
16 designed to temporarily incapacitate or disorient subjects without
17 causing permanent injury, such as a stun grenade, sting grenade,
18 smoke grenade, tear gas grenade, or blast ball.

19 (4) This section does not prohibit a law enforcement agency from
20 participating in a federal military equipment surplus program,
21 provided that any equipment acquired through the program does not
22 constitute military equipment. This may include, for example: Medical
23 supplies; hospital and health care equipment; office supplies,
24 furniture, and equipment; school supplies; warehousing equipment;
25 unarmed vehicles and vessels; conducted energy weapons; public
26 address systems; scientific equipment; and protective gear and
27 weather gear.

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

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

37 (a) (i) There is probable cause to believe that a person in the
38 vehicle has committed or is committing a violent offense or sex

1 offense as defined in RCW 9.94A.030, or an escape under chapter 9A.76
2 RCW; or

3 (ii) There is reasonable suspicion a person in the vehicle has
4 committed or is committing a driving under the influence offense
5 under RCW 46.61.502;

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

8 (c) The person poses an imminent threat to the safety of others
9 and the safety risks of failing to apprehend or identify the person
10 are considered to be greater than the safety risks of the vehicular
11 pursuit under the circumstances; and

12 (d)(i) Except as provided in (d)(ii) of this subsection, the
13 officer has received authorization to engage in the pursuit from a
14 supervising officer and there is supervisory control of the pursuit.
15 The officer in consultation with the supervising officer must
16 consider alternatives to the vehicular pursuit. The supervisor must
17 consider the justification for the vehicular pursuit and other safety
18 considerations, including but not limited to speed, weather, traffic,
19 road conditions, and the known presence of minors in the vehicle, and
20 the vehicular pursuit must be terminated if any of the requirements
21 of this subsection are not met;

22 (ii) For those jurisdictions with fewer than 10 commissioned
23 officers, if a supervisor is not on duty at the time, the officer
24 will request the on-call supervisor be notified of the pursuit
25 according to the agency's procedures. The officer must consider
26 alternatives to the vehicular pursuit, the justification for the
27 vehicular pursuit, and other safety considerations, including but not
28 limited to speed, weather, traffic, road conditions, and the known
29 presence of minors in the vehicle. The officer must terminate the
30 vehicular pursuit if any of the requirements of this subsection are
31 not met.

32 (2) A pursuing officer shall comply with any agency procedures
33 for designating the primary pursuit vehicle and determining the
34 appropriate number of vehicles permitted to participate in the
35 vehicular pursuit and comply with any agency procedures for
36 coordinating operations with other jurisdictions, including available
37 tribal police departments when applicable.

38 (3) A peace officer may not fire a weapon upon a moving vehicle
39 unless necessary to protect against an imminent threat of serious
40 physical harm resulting from the operator's or a passenger's use of a

1 deadly weapon. For the purposes of this subsection, a vehicle is not
2 considered a deadly weapon unless the operator is using the vehicle
3 as a deadly weapon and no other reasonable means to avoid potential
4 serious harm are immediately available to the officer.

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

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

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

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

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

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

Passed by the House April 23, 2021.
Passed by the Senate April 23, 2021.
Approved by the Governor May 18, 2021.
Filed in Office of Secretary of State May 18, 2021.

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