

HOUSE BILL REPORT

HB 1363

As Reported by House Committee On:
Community Safety, Justice, & Reentry

Title: An act relating to vehicular pursuits.

Brief Description: Concerning vehicular pursuits.

Sponsors: Representatives Rule, Robertson, Shavers, Mosbrucker, Reeves, Leavitt, Paul, Griffey, Timmons, Bronoske, Klicker, Walen, Hackney, Couture, Maycumber, Corry, Cortes, McClintock, Davis, Bergquist, Christian, Connors, Dent, Jacobsen, Sandlin, Rude, Stokesbary, Barkis, Graham, Chapman, Ryu, Lekanoff, Wylie, Springer, Callan, Cheney, Orcutt, Stonier, Caldier and Berg.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/31/23, 2/16/23 [DPS].

Brief Summary of Substitute Bill

- Modifies the evidentiary threshold required for engaging in a vehicular pursuit by allowing an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing a violent offense, a sex offense, a Vehicular Assault offense, an Assault offense involving domestic violence, an Escape, or a Driving Under the Influence offense.
- Limits vehicular pursuits to situations where the subject of the vehicular pursuit poses a serious risk of harm to others.
- Modifies certain vehicular pursuit requirements related to supervisory authorization and control, and establishes new requirements related to direct communication with specified entities, development of a plan to end the vehicular pursuit, and the pursuing officer's training and certifications.
- Provides that the amendatory provisions related to vehicular pursuits

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expire on July 1, 2025.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Fosse, Graham and Ramos.

Minority Report: Do not pass. Signed by 1 member: Representative Farivar.

Staff: Corey Patton (786-7388).

Background:

A "vehicular pursuit" is an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer. When engaging in a vehicular pursuit, the officer may violate certain rules of the road including, for example, stop signals, speed limits, and parking restrictions.

An officer may not engage in a vehicular pursuit unless:

- there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense, or an Escape, or there is reasonable suspicion that a person in the vehicle has committed or is committing a Driving Under the Influence offense;
- the vehicular pursuit is necessary for the purpose of identifying or apprehending the person;
- the person poses an imminent threat to the safety of others; and
- the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances.

The officer must receive authorization from a supervisor to engage in the vehicular pursuit and there must be supervisory control, or, in jurisdictions with fewer than 10 commissioned officers, the officer must request the on-call supervisor be notified if a supervisor is not on duty at the time. The officer and supervisor (when applicable) must consider alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations. The officer must terminate the vehicular pursuit if any of these

requirements are not met.

The officer must also comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit and comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable.

Summary of Substitute Bill:

The evidentiary threshold required for engaging in a vehicular pursuit is modified to allow an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing any of the following:

- a violent offense;
- a sex offense;
- a Vehicular Assault offense;
- an Assault in the first, second, third, or fourth degree offense involving domestic violence;
- an Escape; or
- a Driving Under the Influence offense.

The provision limiting vehicular pursuits to situations where the subject of the vehicular pursuit poses an imminent threat to the safety of others is modified to instead limit vehicular pursuits to situations where the subject poses a serious risk of harm to others. The provisions related to supervisory authorization and control of vehicular pursuits are modified to instead require an officer to notify a supervisor immediately upon initiating the vehicular pursuit, and require supervisory oversight of the vehicular pursuit. In jurisdictions with fewer than 10 commissioned officers, the officer must request the on-call supervisor be notified if a supervisor is not on duty at the time.

The vehicular pursuit must also adhere to the following additional requirements:

- The officer, supervisor (when applicable), or dispatcher must notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit.
- The officer must be able to directly communicate with other officers engaging in the vehicular pursuit, the supervisor (when applicable), and the dispatch agency, such as by being on a common radio channel or having other direct means of communication.
- As soon as practicable after initiating the vehicular pursuit, the officer, supervisor (when applicable), or responsible agency must develop a plan to end the vehicular 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.
- The officer must have completed an emergency vehicle operator's course, completed updated emergency vehicle operator training in the previous two years (when

applicable), and be certified in at least one pursuit intervention option.

On July 1, 2025, the amendatory provisions related to vehicular pursuits expire, and current law is reinstated.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) provides that an officer may not engage in a vehicular pursuit unless there is reasonable suspicion that a person in the vehicle has committed or is committing a violent offense, a sex offense, a Vehicular Assault offense, an Assault offense involving domestic violence, an Escape, or a Driving Under the Influence offense; (2) provides that an officer may not engage in a vehicular pursuit unless the person being pursued poses a serious risk of harm to others; (3) restores the provision in current law that limits a vehicular pursuit to situations where the vehicular pursuit is necessary for the purpose of identifying or apprehending the person being pursued; (4) provides that, for a vehicular pursuit in a jurisdiction with 10 or more commissioned officers, the pursuing officer must notify a supervising officer immediately upon initiating the vehicular pursuit and there must be supervisory oversight, including the supervising officer's compliance with specific requirements related to the vehicular pursuit where applicable; (5) provides that, for a vehicular pursuit in a jurisdiction with fewer than 10 commissioned officers, the pursuing officer must request the on-call supervisor be notified if a supervisor is not on duty; (6) provides an emergency clause with an immediate effective date; and (7) provides that the amendatory provisions related to vehicular pursuits expire on July 1, 2025.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 16, 2023.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Following recent changes to state law, there has been a huge escalation in retail theft and other criminal activity, including several examples of people not being pursued after committing violent crimes. Even in jurisdictions that already had strong no-pursuit policies, the number of people refusing to stop for traffic infractions has increased. There is open lawlessness and disregard for law enforcement. Current law benefits criminals who know all they have to do is drive away. It is difficult to connect a specific driver to a license plate, and officers may have no leads to follow if a suspect driving a stolen vehicle or a vehicle with stolen license plates escapes. The impact on communities in Washington has been immeasurable and changes need to be made immediately to avoid more needless deaths and damage. Law enforcement is complex and sometimes requires policies to be

reconsidered and revised after they are implemented.

Incidents occur quickly, so officers need the discretion to pursue when they have reasonable suspicion of a criminal offense, including crimes like Assault in the fourth degree and Stalking. While many police reform efforts have justifiably held officers responsible for their actions, officers must also be empowered to safely do the work they have been tasked with. Washington's policing culture is community-oriented, healthy, and supported by residents. The current approach to regulating vehicular pursuits is not right because a one-size-fits-all policy does not work for every community in Washington. There should be leeway for matching the diverse needs of different communities, because everyone in those communities deserves to be safe. The people who are hurt the most by crime tend to be the most vulnerable people in affected communities, such as people of color.

This bill will prioritize safety by recognizing that vehicular pursuits are inherently dangerous and should only be undertaken when they are necessary and can be conducted safely. The revisions in this bill will strike the right balance between compliance with law enforcement and the safety of victims and bystanders by including clear vehicular pursuit procedures, termination requirements, and certification and training requirements. It is also critical that this bill retains the ability for jurisdictions to adopt supplemental standards.

(Opposed) The recent changes to prohibit vehicular pursuits were put in place to address the deaths of bystanders who were collateral damage in vehicular pursuits. There has been a substantial decrease in injuries and fatalities since these changes. Some counties already had more restrictive policies before the current law was put in place. The evidence is indicating that fatalities have decreased without unintended consequences like increased crime. Vehicular pursuits do not always result in arrests. The real problem is that officers choose to not operate within the scope of the law, which allows vehicular pursuits for probable cause of certain crimes, because they want to roll back restrictions. It is important to acknowledge the pain felt by families impacted by the current law, but rolling back protections will not make Washington safer.

The proposed expansion of authorization in this bill is overbroad. Additional data needs to be collected and further studies need to take place before changing current policies. There is some support for a work group to allow for more careful deliberation. Keep the current law in place, it is working as intended. Police violence never has just one victim. It impacts families, communities, and future generations. There must be real advances in justice for people of color.

Persons Testifying: (In support) Representative Alicia Rule, prime sponsor; Jill Boudreau, City of Mount Vernon; Jeff DeVere, Washington Council of Police and Sheriffs; Mary Lou Pauly, City of Issaquah; Jason Whalen, City of Lakewood; Rafael Padilla, City of Kent; Amber Goldade; Amy Ockerlander, Association of Washington Cities; Jim Ferrell, City of Federal Way; Tracie Markley, City of Gig Harbor; Kyle Hardtke; James McMahan, Washington Association of Sheriffs and Police Chiefs; and Derek Sanders, Thurston

County.

(Opposed) Michelle Feldman, Center for Policing Equity; Andrea Caupain Sanderson, BIPOC ED Coalition of Washington; Nickeia Hunter, Kurtis Robertson, and Leslie Cushman, Washington Coalition for Police Accountability; and Martina Morris, Next Steps Washington.

Persons Signed In To Testify But Not Testifying: More than 20 persons signed in. Please see committee staff for information.