

HOUSE BILL REPORT

ESB 5352

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

Title: An act relating to permitting peace officers to engage in a vehicular pursuit only when there is reasonable suspicion to believe that a person in the vehicle has committed or is committing a violent offense as defined in RCW 9.94A.030, a sex offense under RCW 9.94A.030, a vehicular assault offense under RCW 46.61.522, an assault in the first, second, third, or fourth degree offense under chapter 9A.36 RCW only if the assault involves domestic violence as defined in RCW 10.99.020, an escape under chapter 9A.76 RCW, or a driving under the influence offense under RCW 46.61.502, and imposing training requirements on pursuing officers, and modifying safety and supervision requirements on vehicular pursuits.

Brief Description: Concerning vehicular pursuits.

Sponsors: Senators Lovick, MacEwen, Cleveland, Conway, Gildon, Holy, Hunt, Mullet, Rolfes, Salomon, Short, Torres, Van De Wege, Warnick and Wilson, L..

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 3/28/23 [DPA].

Brief Summary of Engrossed Bill
(As Amended By Committee)

- Modifies the evidentiary threshold required for engaging in a vehicular pursuit by allowing an officer to conduct the pursuit if the officer has a 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- 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.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass as amended. Signed by 7 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Fosse and Ramos.

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

Minority Report: Without recommendation. Signed by 1 member: Representative Graham.

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 Amended 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 to believe 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.

Vehicular pursuits are limited to situations where the subject poses a serious risk of harm to others. An officer must notify a supervisor immediately upon initiating the vehicular pursuit, and supervisory oversight of the pursuit is required. In jurisdictions with fewer than 15 commissioned officers, the pursuing 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. The emergency vehicle operator training must include training on performing the risk assessment analysis of whether a person being pursued poses a serious risk of harm to others and when the safety risks of failing to apprehend or identify the person are considered greater than the safety risk of the pursuit.

Amended Bill Compared to Engrossed Bill:

The amended bill makes two main changes to the engrossed bill. A pursuing officer in a jurisdiction with 15 or fewer commissioned officers, rather than 10, must request the on-call officer be notified of the pursuit upon initiating the pursuit. Emergency vehicle operator training must include training on performing the risk assessment analysis of whether a person being pursued poses a serious risk of harm to others and when the safety risks of failing to apprehend or identify the person are considered greater than the safety risk of the pursuit.

Appropriation: None.

Fiscal Note: Requested on March 28, 2023.

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

Staff Summary of Public Testimony:

No public hearing was held.

Persons Testifying: No public hearing was held.

Persons Signed In To Testify But Not Testifying: No public hearing was held.