

SHB 3003 - H AMD 1422
By Representative Rodne

NOT ADOPTED 03/07/2018

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

3 "PART I
4 TITLE AND INTENT

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the law
6 enforcement training and community safety act.

7 NEW SECTION. **Sec. 2.** The intent of the people in enacting this
8 act is to make our communities safer. This is accomplished by
9 requiring law enforcement officers to obtain violence de-escalation
10 and mental health training, so that officers will have greater skills
11 to resolve conflicts without the use of physical or deadly force. Law
12 enforcement officers will receive first aid training and be required
13 to render first aid, which will save lives and be a positive point of
14 contact between law enforcement officers and community members to
15 increase trust and reduce conflicts. Finally, the initiative adopts a
16 "good faith" standard for officer criminal liability in those
17 exceptional circumstances where deadly force is used, so that
18 officers using deadly force in carrying out their duties in good
19 faith will not face prosecution.

20 PART II
21 REQUIRING LAW ENFORCEMENT OFFICERS TO RECEIVE VIOLENCE DE-ESCALATION
22 TRAINING

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.101
24 RCW to read as follows:

25 (1) Beginning one year after the effective date of this section,
26 all law enforcement officers in the state of Washington must receive
27 violence de-escalation training. Law enforcement officers beginning
28 employment after the effective date of this section must successfully

1 complete such training within the first fifteen months of employment.
2 The commission shall set the date by which other law enforcement
3 officers must successfully complete such training.

4 (2) All law enforcement officers shall periodically receive
5 continuing violence de-escalation training to practice their skills,
6 update their knowledge and training, and learn about new legal
7 requirements and violence de-escalation strategies.

8 (3) The commission shall set training requirements through the
9 procedures in section 5 of this act.

10 **PART III**

11 **REQUIRING LAW ENFORCEMENT OFFICERS TO RECEIVE MENTAL HEALTH TRAINING**

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.101
13 RCW to read as follows:

14 (1) Beginning one year after the effective date of this section,
15 all law enforcement officers in the state of Washington must receive
16 mental health training. Law enforcement officers beginning employment
17 after the effective date of this section must successfully complete
18 such training within the first fifteen months of employment. The
19 commission shall set the date by which other law enforcement officers
20 must successfully complete such training.

21 (2) All law enforcement officers shall periodically receive
22 continuing mental health training to update their knowledge about
23 mental health issues and associated legal requirements, and to update
24 and practice skills for interacting with people with mental health
25 issues.

26 (3) The commission shall set training requirements through the
27 procedures in section 5 of this act.

28 **PART IV**

29 **TRAINING REQUIREMENTS SHALL BE SET IN CONSULTATION WITH LAW**
30 **ENFORCEMENT AND COMMUNITY STAKEHOLDERS**

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101
32 RCW to read as follows:

33 (1) Within six months after the effective date of this section,
34 the commission must consult with law enforcement agencies and
35 community stakeholders and adopt rules for carrying out the training

1 requirements of sections 3 and 4 of this act. Such rules must, at a
2 minimum:

3 (a) Adopt training hour requirements and curriculum for initial
4 violence de-escalation trainings required by this act;

5 (b) Adopt training hour requirements and curriculum for initial
6 mental health trainings required by this act, which may include all
7 or part of the mental health training curricula established under RCW
8 43.101.227 and 43.101.427;

9 (c) Adopt annual training hour requirements and curricula for
10 continuing trainings required by this act;

11 (d) Establish means by which law enforcement officers will
12 receive trainings required by this act; and

13 (e) Require compliance with this act's training requirements.

14 (2) In developing curricula, the commission shall consider
15 inclusion of the following:

16 (a) De-escalation in patrol tactics and interpersonal
17 communication training, including tactical methods that use time,
18 distance, cover, and concealment, to avoid escalating situations that
19 lead to violence;

20 (b) Alternatives to jail booking, arrest, or citation in
21 situations where appropriate;

22 (c) Implicit and explicit bias, cultural competency, and the
23 historical intersection of race and policing;

24 (d) Skills including de-escalation techniques to effectively,
25 safely, and respectfully interact with people with disabilities
26 and/or behavioral health issues;

27 (e) "Shoot/don't shoot" scenario training;

28 (f) Alternatives to the use of physical or deadly force so that
29 de-escalation tactics and less lethal alternatives are part of the
30 decision-making process leading up to the consideration of deadly
31 force;

32 (g) Mental health and policing, including bias and stigma; and

33 (h) Using public service, including rendering of first aid, to
34 provide a positive point of contact between law enforcement officers
35 and community members to increase trust and reduce conflicts.

36 (3) The initial violence de-escalation training must educate
37 officers on the good faith standard for use of deadly force
38 established by this act and how that standard advances violence de-
39 escalation goals.

1 (4) The commission may provide trainings, alone or in partnership
2 with private parties or law enforcement agencies, authorize private
3 parties or law enforcement agencies to provide trainings, or any
4 combination thereof. The entity providing the training may charge a
5 reasonable fee.

6 **PART V**

7 **ESTABLISHING LAW ENFORCEMENT OFFICERS' DUTY TO RENDER FIRST AID**

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.28A
9 RCW to read as follows:

10 (1) It is the policy of the state of Washington that all law
11 enforcement personnel must provide or facilitate first aid such that
12 it is rendered at the earliest safe opportunity to injured persons at
13 a scene controlled by law enforcement.

14 (2) Within one year after the effective date of this section, the
15 Washington state criminal justice training commission, in
16 consultation with the Washington state patrol, the Washington
17 association of sheriffs and police chiefs, organizations representing
18 state and local law enforcement officers, health providers and/or
19 health policy organizations, tribes, and community stakeholders,
20 shall develop guidelines for implementing the duty to render first
21 aid adopted in this section. The guidelines must:

22 (a) Adopt first aid training requirements;

23 (b) Address best practices for securing a scene to facilitate the
24 safe, swift, and effective provision of first aid to anyone injured
25 in a scene controlled by law enforcement or as a result of law
26 enforcement action; and

27 (c) Assist agencies and law enforcement officers in balancing the
28 many essential duties of officers with the solemn duty to preserve
29 the life of persons with whom officers come into direct contact.

30 **PART VI**

31 **ADOPTING A "GOOD FAITH" STANDARD FOR LAW ENFORCEMENT OFFICER USE OF**
32 **DEADLY FORCE**

33 **Sec. 7.** RCW 9A.16.040 and 1986 c 209 s 2 are each amended to
34 read as follows:

35 (1) Homicide or the use of deadly force is justifiable in the
36 following cases:

1 (a) When a public officer applies deadly force (~~(is acting)~~) in
2 obedience to the judgment of a competent court; or

3 (b) When necessarily used by a peace officer meeting the good
4 faith standard of this section to overcome actual resistance to the
5 execution of the legal process, mandate, or order of a court or
6 officer, or in the discharge of a legal duty(~~(-)~~); or

7 (c) When necessarily used by a peace officer meeting the good
8 faith standard of this section or person acting under the officer's
9 command and in the officer's aid:

10 (i) To arrest or apprehend a person who the officer reasonably
11 believes has committed, has attempted to commit, is committing, or is
12 attempting to commit a felony;

13 (ii) To prevent the escape of a person from a federal or state
14 correctional facility or in retaking a person who escapes from such a
15 facility; (~~(or)~~)

16 (iii) To prevent the escape of a person from a county or city
17 jail or holding facility if the person has been arrested for, charged
18 with, or convicted of a felony; or

19 (iv) To lawfully suppress a riot if the actor or another
20 participant is armed with a deadly weapon.

21 (2) In considering whether to use deadly force under subsection
22 (1)(c) of this section, to arrest or apprehend any person for the
23 commission of any crime, the peace officer must have probable cause
24 to believe that the suspect, if not apprehended, poses a threat of
25 serious physical harm to the officer or a threat of serious physical
26 harm to others. Among the circumstances which may be considered by
27 peace officers as a "threat of serious physical harm" are the
28 following:

29 (a) The suspect threatens a peace officer with a weapon or
30 displays a weapon in a manner that could reasonably be construed as
31 threatening; or

32 (b) There is probable cause to believe that the suspect has
33 committed any crime involving the infliction or threatened infliction
34 of serious physical harm.

35 Under these circumstances deadly force may also be used if
36 necessary to prevent escape from the officer, where, if feasible,
37 some warning is given, provided the officer meets the good faith
38 standard of this section.

39 (3) A public officer (~~(or peace officer)~~) covered by subsection
40 (1)(a) of this section shall not be held criminally liable for using

1 deadly force without malice and with a good faith belief that such
2 act is justifiable pursuant to this section.

3 (4) A peace officer shall not be held criminally liable for using
4 deadly force in good faith, where "good faith" is an objective
5 standard which shall consider all the facts, circumstances, and
6 information known to the officer at the time to determine whether a
7 similarly situated reasonable officer would have believed that the
8 use of deadly force was necessary to prevent death or serious
9 physical harm to the officer or another individual.

10 (5) This section shall not be construed as:

11 (a) Affecting the permissible use of force by a person acting
12 under the authority of RCW 9A.16.020 or 9A.16.050; or

13 (b) Preventing a law enforcement agency from adopting standards
14 pertaining to its use of deadly force that are more restrictive than
15 this section.

16 NEW SECTION. Sec. 8. Except as required by federal consent
17 decree, federal settlement agreement, or federal court order, where
18 the use of deadly force by a peace officer results in death,
19 substantial bodily harm, or great bodily harm, an independent
20 investigation must be completed to inform any determination of
21 whether the use of deadly force met the good faith standard
22 established in RCW 9A.16.040 and satisfied other applicable laws and
23 policies. The investigation must be completely independent of the
24 agency whose officer was involved in the use of deadly force. The
25 criminal justice training commission must adopt rules establishing
26 criteria to determine what qualifies as an independent investigation
27 pursuant to this section.

28 NEW SECTION. Sec. 9. Whenever a law enforcement officer's
29 application of force results in the death of a person who is an
30 enrolled member of a federally recognized Indian tribe, the law
31 enforcement agency must notify the governor's office of Indian
32 affairs. Notice by the law enforcement agency to the governor's
33 office of Indian affairs must be made within a reasonable period of
34 time, but not more than twenty-four hours after the law enforcement
35 agency has good reason to believe that the person was an enrolled
36 member of a federally recognized Indian tribe. Notice provided under
37 this section must include sufficient information for the governor's
38 office of Indian affairs to attempt to identify the deceased person

1 and his or her tribal affiliation. Nothing in this section requires a
2 law enforcement agency to disclose any information that could
3 compromise the integrity of any criminal investigation. The
4 governor's office of Indian affairs must establish a means to receive
5 the notice required under this section, including outside of regular
6 business hours, and must immediately notify the tribe of which the
7 person was enrolled.

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 9A.16
9 RCW to read as follows:

10 (1) When a peace officer who is charged with a crime is found not
11 guilty or charges are dismissed by reason of justifiable homicide or
12 use of deadly force under RCW 9A.16.040, or by reason of self-
13 defense, for actions taken while on duty or otherwise within the
14 scope of his or her authority as a peace officer, the state of
15 Washington shall reimburse the defendant for all reasonable costs,
16 including loss of time, legal fees incurred, and other expenses
17 involved in his or her defense. This reimbursement is not an
18 independent cause of action.

19 (2) If the trier of fact makes a determination of justifiable
20 homicide, justifiable use of deadly force, or self-defense, the judge
21 shall determine the amount of the award.

22 (3) Whenever the issue of justifiable homicide, justifiable use
23 of deadly force, or self-defense under this section is decided by a
24 judge, or whenever charges against a peace officer are dismissed
25 based on the merits, the judge shall consider the same questions as
26 must be answered in the special verdict under subsection (4) of this
27 section.

28 (4) Whenever the issue of justifiable homicide, justifiable use
29 of deadly force, or self-defense under this section has been
30 submitted to a jury, and the jury has found the defendant not guilty,
31 the court shall instruct the jury to return a special verdict in
32 substantially the following form:

33 answer
34 yes or no

35 1. Was the defendant on duty or
36 otherwise acting within the scope
37 of his or her authority as a peace
38 officer?

1 2. Was the finding of not guilty based
2 upon justifiable homicide,
3 justifiable use of deadly force, or
4 self-defense?

5 (5) Nothing in this section precludes the legislature from using
6 the sundry claims process to grant an award where none was granted
7 under this section or otherwise where the charge was dismissed prior
8 to trial, or to grant a higher award than one granted under this
9 section.

10 **PART VII**
11 **MISCELLANEOUS**

12 NEW SECTION. **Sec. 11.** The provisions of this act are to be
13 liberally construed to effectuate the intent, policies, and purposes
14 of this act. Nothing in this act precludes local jurisdictions or law
15 enforcement agencies from enacting additional training requirements
16 or requiring law enforcement officers to provide first aid in more
17 circumstances than required by this act or guidelines adopted under
18 this act.

19 NEW SECTION. **Sec. 12.** Except where a different timeline is
20 provided in this act, the Washington state criminal justice training
21 commission must adopt any rules necessary for carrying out the
22 requirements of this act within one year after the effective date of
23 this section. In carrying out all rule making under this act, the
24 commission shall seek input from the attorney general, law
25 enforcement agencies, the Washington council of police and sheriffs,
26 the Washington state fraternal order of police, the council of
27 metropolitan police and sheriffs, the Washington state patrol
28 troopers association, at least one association representing law
29 enforcement who represent traditionally underrepresented communities
30 including the black law enforcement association of Washington, de-
31 escalate Washington, tribes, and community stakeholders. The
32 commission shall consider the use of negotiated rule making.

33 Where this act requires involvement of community stakeholders,
34 input must be sought from organizations advocating for: Persons with
35 disabilities; members of the lesbian, gay, bisexual, transgender, and

1 queer community; persons of color; immigrants; non-citizens; native
2 Americans; youth; and formerly incarcerated persons.

3 NEW SECTION. **Sec. 13.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 14.** Sections 8 and 9 of this act constitute a
8 new chapter in Title 10 RCW.

9 NEW SECTION. **Sec. 15.** For constitutional purposes, the subject
10 of this act is "law enforcement."

11 NEW SECTION. **Sec. 16.** This act constitutes an alternative to
12 Initiative Measure No. 940. The secretary of state shall place this
13 act on the ballot in conjunction with Initiative Measure No. 940,
14 pursuant to Article II, section 1(a) of the state Constitution."

15 Correct the title.

EFFECT: Modifies the provisions of the underlying bill so as to
amend current law, rather than the law as reflected by Initiative
Measure No. 940 (I-940). Incorporates the remaining provisions of
I-940 that were not included in the underlying bill.

Removes the contingent effective date, and instead makes the bill
an alternative to I-940. Requires the Secretary of State to place the
bill on the ballot in conjunction with I-940, pursuant to Article II,
section 1(a) of the state Constitution.

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