

HOUSE BILL REPORT

SHB 2789

As Passed House:
February 17, 2020

Title: An act relating to collecting information regarding police use of deadly force.

Brief Description: Collecting information regarding police use of deadly force.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Lovick, Klippert, Davis, Orwall, Valdez, Kilduff, J. Johnson, Ryu, Peterson, Ramel, Pollet, Young and Frame).

Brief History:

Committee Activity:

Public Safety: 1/28/20, 2/6/20 [DPS];

Appropriations: 2/11/20 [DPS(PS)].

Floor Activity:

Passed House: 2/17/20, 93-4.

Brief Summary of Substitute Bill

- Requires law enforcement agencies to report information on police use of deadly force to the Washington Association of Sheriffs and Police Chiefs (WASPC).
- Requires the WASPC to maintain a central repository for the collection and classification of information regarding police use of deadly force, and requires the WASPC to publish an annual report with a summary of the information.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Sutherland, Assistant Ranking Minority Member; Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

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

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

Minority Report: Do not pass. Signed by 1 member: Representative Klippert, Ranking Minority Member.

Staff: Kelly Leonard (786-7147).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Public Safety be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 2 members: Representatives Kraft and Ybarra.

Staff: Yvonne Walker (786-7841).

Background:

Washington Association of Sheriffs and Police Chiefs. The Washington Association of Sheriffs and Police Chiefs (WASPC) is an independent organization consisting of sheriffs, police chiefs, the Washington State Patrol, and the Department of Corrections. The WASPC is also a statutory entity and currently receives state funding to manage certain programs, including the Jail Booking and Reporting System and Arrest and Jail Alternatives Law Enforcement Grant Program.

Law Enforcement Use of Deadly Force. Under state law, "deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury. Law enforcement officers may use deadly force in certain circumstances. This includes, for example, when necessarily used to apprehend or arrest a person who poses a threat of serious physical harm to the officer or others. In each circumstance, the officer must have a good faith belief that the act is justifiable according to certain statutory requirements.

Law enforcement officers are required to complete basic and advanced training to obtain and maintain certification. As a result of the passage of Initiative Measure No. 940 in 2018, officers are also required to complete de-escalation training. Officers must be trained on alternatives to the use of physical or deadly force so that de-escalation tactics and less lethal alternatives are part of the decisionmaking process leading up to the consideration of deadly force.

Summary of Substitute Bill:

Subject to an appropriation of funds, the WASPC must establish and maintain a central repository for the collection and classification of information regarding police use of deadly force, which includes any incident where:

- a fatality occurs in connection with use of force by a law enforcement officer;

- serious bodily injury occurs in connection with use of force by a law enforcement officer; or
- a firearm is discharged by law enforcement at or in the direction of a person.

Each general and limited authority law enforcement agency must submit a report to the WASPC when any qualifying incident occurs. The report must include certain information specified under the bill, including information pertaining to the incident, officer, and subject.

The WASPC must develop a procedure to monitor, record, analyze, and report information to the public. The WASPC must summarize the information received and publish an annual report on its website.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Public Safety):

(In support) Simply put, law enforcement must create trust through transparency. This bill comes at the end of a long process of relationship-building between law enforcement and community groups. Both sides would like to see robust data collection and reporting across the state.

The WASPC already operates several programs on behalf of the state, including collecting and reporting crime data. The WASPC is the conduit to transmit crime data from agencies to the public. As such, it makes sense for the WASPC to administer this program.

As written, the bill is too vague. The bill may need some amendments to clarify the types of incidents that require reporting and what data should actually be submitted. There is an interest in participating in the national data collection program administered by the Federal Bureau of Investigations (FBI). Most agencies already participate. The state data collection program should mirror the FBI program. This would facilitate better research and analysis, as the data could be readily compared to other states and jurisdictions.

(Opposed) None.

(Other) There are concerns with the Public Records Act exemption created in the bill. Given the nature of this, there is a need for the public to access the raw data, not just the summary. There needs to be some ability to verify the information. It does not make sense to create a blanket exemption for this program, regardless of where it is administered.

Staff Summary of Public Testimony (Appropriations):

(In support) The Criminal Justice Training Commission (CJTC) passed a resolution to bring this deadly force collection bill to the Legislature this year after Initiative 940 went into

effect. The CJTC has worked with community groups and law enforcement to establish standards, and they wanted to ensure an entity such as the WASPC was the mandatory collection point for such data. The data collected under this bill is also comparable to what other states collect regarding deadly force incidents.

(Opposed) None.

Persons Testifying (Public Safety): (In support) Representative Lovick, prime sponsor; Derek Zable, Criminal Justice Training Commission; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Other) Teresa Taylor, Washington Council of Police and Sheriffs; and Rowland Thompson, Allied Daily Newspapers of Washington.

Persons Testifying (Appropriations): Derek Zable, Criminal Justice Training Commission.

Persons Signed In To Testify But Not Testifying (Public Safety): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.