
ENGROSSED SUBSTITUTE HOUSE BILL 1054

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 riot, barricaded subject, or hostage situation. Prior to deploying
24 tear gas, the officer or employee shall:

- 25 (a) Exhaust alternatives to the use of tear gas that are
26 available and appropriate under the circumstances;
- 27 (b) Obtain authorization to use tear gas from the chief law
28 enforcement officer, who must determine whether the present
29 circumstances warrant the use of tear gas and whether available and
30 appropriate alternatives have been exhausted as provided under this
31 section;
- 32 (c) Announce to the subject or subjects the intent to use tear
33 gas;
- 34 (d) Allow sufficient time and space for the subject or subjects
35 to comply with the officer's or employee's directives; and
- 36 (e) Announce to the subject or subjects for a second time,
37 immediately prior to deploying tear gas, the intent to use tear gas.
- 38 (2) For the purposes of this section:

1 (a) "Chief law enforcement officer" refers to the chief law
2 enforcement officer of the law enforcement agency, including: The
3 sheriff or chief for a general authority Washington law enforcement
4 agency; and the executive head of the department or agency for a
5 limited authority Washington law enforcement agency, such as the
6 secretary of corrections for the department of corrections.

7 (b) "Tear gas" refers to chloroacetophenone (CN), O-
8 chlorobenzylidene malononitrile (CS), and any similar chemical
9 irritant dispersed in the air for the purpose of producing temporary
10 physical discomfort or permanent injury, except "tear gas" does not
11 include oleoresin capsicum (OC).

12 NEW SECTION. **Sec. 5.** (1) A law enforcement agency may not
13 acquire or use any military equipment. Any law enforcement agency in
14 possession of military equipment as of the effective date of this
15 section shall return the equipment to the federal agency from which
16 it was acquired, if applicable, or destroy the equipment by December
17 31, 2022.

18 (2) For the purposes of this section:

19 (a) "Military equipment" means firearms and ammunition of .50
20 caliber or greater, machine guns, armed helicopters, armed or armored
21 drones, armed vessels, armed vehicles, armed aircraft, tanks, mine
22 resistant ambush protected vehicles, long range acoustic hailing
23 devices, rockets, rocket launchers, bayonets, grenades, missiles,
24 directed energy systems, and electromagnetic spectrum weapons.

25 (b) "Grenade" refers to any explosive grenade designed to injure
26 or kill subjects, such as a fragmentation grenade or antitank
27 grenade, or any incendiary grenade designed to produce intense heat
28 or fire. "Grenade" does not include other nonexplosive grenades
29 designed to temporarily incapacitate or disorient subjects without
30 causing permanent injury, such as a stun grenade, sting grenade,
31 smoke grenade, tear gas grenade, or blast ball.

32 (3) This section does not prohibit a law enforcement agency from
33 participating in a federal military equipment surplus program,
34 provided that any equipment acquired through the program does not
35 constitute military equipment. This may include, for example: Medical
36 supplies; hospital and health care equipment; office supplies,
37 furniture, and equipment; school supplies; warehousing equipment;
38 unarmed vehicles and vessels; conducted energy weapons; public

1 address systems; scientific equipment; and protective gear and
2 weather gear.

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

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

12 (a) There is probable cause to believe that a person in the
13 vehicle has committed or is committing a violent offense or sex
14 offense, as those terms are defined in RCW 9.94A.030;

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

17 (c) Under the circumstances, the safety risks of failing to
18 apprehend or identify the person are considered to be greater than
19 the safety risks associated with the vehicular pursuit;

20 (d) The officer has received authorization to engage in the
21 pursuit from a supervising officer; and

22 (e) There is supervisory control of the pursuit, and the
23 supervisor considers relevant factors affecting public safety, such
24 as whether there are minors present in the vehicle.

25 (2) A peace officer may not fire a weapon upon a moving vehicle
26 unless necessary to protect against an imminent threat of serious
27 physical harm resulting from the operator's or a passenger's use of a
28 deadly weapon. For the purposes of this subsection, a vehicle is not
29 considered a deadly weapon unless the operator is using the vehicle
30 as a deadly weapon and no other reasonable means to avoid potential
31 serious harm are immediately available to the officer.

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

34 (1) To make an arrest in criminal actions, the officer may break
35 open any outer or inner door, or windows of a dwelling house or other
36 building, or any other (~~inclosure~~ {enclosure}) enclosure, if, after

1 notice of his or her office and purpose, he or she be refused
2 admittance.

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

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

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

--- END ---