
HOUSE BILL 1203

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2021 Regular Session

By Representatives J. Johnson, Harris-Talley, Bateman, Simmons, Gregerson, Valdez, Berry, Riccelli, Santos, Ryu, Ramel, Sells, Ortiz-Self, Goodman, Berg, Dolan, Tharinger, Macri, Fey, Davis, Ramos, and Frame

Read first time 01/14/21. Referred to Committee on Public Safety.

1 AN ACT Relating to community oversight boards; amending RCW
2 10.--.---, 35.23.021, 35.27.070, 35A.12.090, and 35A.13.080; adding a
3 new section to chapter 35.22 RCW; adding a new chapter to Title 10
4 RCW; creating a new section; providing an effective date; and
5 providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that transparency
8 and community oversight are integral components of just and fair
9 governance; this is especially true with respect to the exercise of
10 law enforcement functions within communities. The legislature further
11 finds that recent violent interactions between law enforcement
12 officers and community members have sounded an urgent call for a
13 renewed and multifaceted approach to increase police accountability
14 in Washington. The establishment of community oversight boards to
15 investigate and report on officers' activities is one such essential
16 step, as internal police oversight mechanisms have proven to be
17 insufficient. Increased community oversight will lead to better
18 policies for avoiding adverse incidents between law enforcement
19 officers and community members, and also to more just and transparent
20 outcomes when incidents do arise. To this end, the legislature
21 intends to provide a standardized framework for robust and effective

1 community oversight of law enforcement functions, with the ultimate
2 goal of statewide implementation of community oversight boards over
3 the coming years.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Law enforcement agency" includes any general authority
8 Washington law enforcement agency as defined in RCW 10.93.020 that
9 employs 10 or more law enforcement officers in addition to the chief
10 of police or sheriff, but does not include state law enforcement
11 agencies.

12 (2) "Law enforcement officer" includes any person who is employed
13 or commissioned by a law enforcement agency to enforce the criminal
14 laws of the state of Washington.

15 (3) "Local jurisdiction" includes counties and any city or town
16 with a law enforcement agency serving directly under its authority,
17 rather than by contract or agreement with another local jurisdiction,
18 and does not include special purpose districts.

19 (4) "Similar oversight body" includes any law enforcement
20 oversight or advisory body that is external to the law enforcement
21 agency the body oversees, and may include, but is not limited to,
22 police ombudsman offices and citizen advisory, review, and oversight
23 boards.

24 NEW SECTION. **Sec. 3.** (1) All local jurisdictions must establish
25 a community oversight board by January 1, 2025. Except as provided in
26 section 6 of this act, a community oversight board established by a
27 local jurisdiction must conform with the requirements in this
28 section.

29 (2) A community oversight board must have the following powers
30 and duties with respect to any law enforcement agency serving under
31 the authority of the local jurisdiction:

32 (a) To receive complaints from community members regarding the
33 conduct of law enforcement officers and civilian employees of the law
34 enforcement agency;

35 (b) Upon complaint of any person or on its own initiative, to
36 investigate incidents that occur between members of the public and
37 law enforcement officers or civilian employees of the law enforcement
38 agency, including incidents involving: The use of force by a law

1 enforcement officer; death of or serious injury to any person held in
2 custody; serious abuse of authority or misconduct by a law
3 enforcement officer; allegedly discriminatory stops or other
4 profiling activity; adversarial interactions between law enforcement
5 officers and community members at public assemblies; and other
6 adverse incidents related to the conduct of law enforcement officers
7 or civilian employees of the law enforcement agency;

8 (c) To issue findings on incidents investigated under (b) of this
9 subsection. If an incident is initially reported to the community
10 oversight board by a community member complaint, the community
11 oversight board must conduct an investigation of the incident
12 whenever possible, and must issue findings on the investigation
13 within 120 days of the community oversight board's receipt of the
14 initial complaint. If an investigation is not possible, the community
15 oversight board must notify the complainant and provide a reason that
16 the investigation was not pursued;

17 (d) Following any investigation conducted pursuant to (b) of this
18 subsection, to make recommendations for discipline of a law
19 enforcement officer or civilian employee of the law enforcement
20 agency in cases that involve serious breaches of departmental or
21 professional standards, as defined by the local jurisdiction.
22 Recommended disciplinary measures may include letters of reprimand,
23 suspension with or without pay, demotion or reassignment within the
24 agency, termination, mandatory restitution, or mediation to be
25 implemented by the employing law enforcement agency. Whenever the
26 community oversight board makes a recommendation for discipline of a
27 law enforcement officer or civilian employee of the law enforcement
28 agency, the recommendation and a report of supporting information
29 must be submitted to the employing law enforcement agency and, if the
30 recommendation pertains to an officer, to the criminal justice
31 training commission;

32 (e) To hold hearings, and to issue subpoenas in order to compel
33 any person to appear, give sworn testimony, or produce documentary or
34 other evidence reasonable in scope and relevant to a matter under
35 inquiry pursuant to this section, if requested testimony or evidence
36 are not provided voluntarily. If a person fails to obey a subpoena,
37 the community oversight board may petition the superior court for
38 enforcement of the subpoena;

39 (f) To review and make recommendations for changes to policies,
40 practices, and procedures of the law enforcement agency. If the law

1 enforcement agency declines to implement one or more of the community
2 oversight board's recommended changes, the law enforcement agency
3 must create a written record, which must be made available to the
4 public, of its rationale for declining to implement the
5 recommendations;

6 (g) To review all investigations conducted internally by the law
7 enforcement agency, including internal investigations of civilians
8 employed by the law enforcement agency, and to issue findings
9 regarding the accuracy, completeness, and impartiality of
10 investigations, and the sufficiency of any discipline resulting from
11 investigations;

12 (h) To request reports of the annual expenditures of the law
13 enforcement agency and to make budgetary recommendations to the local
14 jurisdiction's legislative body concerning future appropriations;

15 (i) To be given access to crime scenes and related administrative
16 investigations, including access to preliminary evidence and other
17 information as necessary for the community oversight board to make
18 its recommendations under (g) of this subsection, provided that
19 access is in a manner that protects the integrity of the crime scene
20 or investigation. Community oversight board access to crime scenes
21 and investigations must not be more restricted than access granted to
22 members of the press;

23 (j) To make public reports on the activities of the community
24 oversight board, including its investigations, hearings, findings,
25 recommendations, determinations, and oversight activities;

26 (k) To select qualified candidates to fill any vacancy in the
27 position of chief of police, in applicable local jurisdictions; and

28 (l) To undertake any other duties, as authorized by the local
29 jurisdiction, that are reasonably necessary for the community
30 oversight board to effectuate its lawful purpose of effectively
31 overseeing the law enforcement agency and its officers and employees.

32 (3) Subject to subsections (4) through (7) of this section, a
33 local jurisdiction must establish the policies and procedures for its
34 community oversight board, including policies and procedures
35 concerning, at a minimum: The number of members; composition and
36 appointment of membership; meetings and hearings; communication with
37 the public and receipt of complaints; access to files, records, and
38 other information, and requirements for maintaining any
39 confidentiality of the files, records, and information to which it is

1 granted access; and the performance of the community oversight
2 board's duties and other functions as identified in this section.

3 (4) The following persons are ineligible to serve on a community
4 oversight board:

5 (a) Any person currently employed by any general authority
6 Washington law enforcement agency or any limited authority Washington
7 law enforcement agency, as defined in RCW 10.93.020;

8 (b) Any immediate family member of a general authority Washington
9 peace officer or limited authority Washington peace officer, as
10 defined in RCW 10.93.020; and

11 (c) Any person who receives payment, or who is employed by an
12 entity that receives payment, pursuant to a contract with the law
13 enforcement agency that the community oversight board oversees.

14 (5) A portion of a community oversight board's membership must be
15 filled by members of the public. Applicable openings must be posted
16 in a publicly accessible format, and applications from the public
17 must be accepted and considered.

18 (6) To the extent possible, a community oversight board's
19 membership should be reflective of the diversity of the community in
20 which it is located, in particular, with respect to race, ethnicity,
21 gender, age, language, and culture. Membership additionally should,
22 whenever possible, include members of families affected by law
23 enforcement violence, justice-involved individuals, and
24 representatives of civil rights advocacy organizations.

25 (7) A community oversight board must maintain multiple methods
26 for submitting and reviewing the status of complaints, including both
27 online and in-person methods.

28 (8) A community oversight board may retain legal counsel to
29 represent the board in all cases, hearings, controversies, or matters
30 involving the interests of the board. Counsel must be paid from the
31 funds of the local jurisdiction.

32 (9) The annual budget for a local jurisdiction's community
33 oversight board must be equal to or greater than five percent of the
34 total funds allocated in the local jurisdiction for law enforcement
35 purposes.

36 NEW SECTION. **Sec. 4.** (1) Subject to subsection (2) of this
37 section, when a vacancy opens for the position of chief of police in
38 a local jurisdiction that has a community oversight board, the
39 community oversight board must, as soon as possible, but no later

1 than 60 days from the start of the vacancy, produce a list of four
2 qualified candidates for the position. The mayor or other appointing
3 party must select the replacement chief of police from the qualified
4 candidate list provided by the community oversight board.

5 (2) The requirement in this section applies beginning January 1,
6 2022, for local jurisdictions with a community oversight board or
7 similar oversight body that was in existence prior to the effective
8 date of this section.

9 **Sec. 5.** RCW 10.--.--- and 2021 c ... s 4 (section 4 of this act)
10 are each amended to read as follows:

11 (~~((1) Subject to subsection (2) of this section, when))~~ When a
12 vacancy opens for the position of chief of police in a local
13 jurisdiction (~~(that has a community oversight board)~~), the community
14 oversight board must, as soon as possible, but no later than 60 days
15 from the start of the vacancy, produce a list of four qualified
16 candidates for the position. The mayor or other appointing party must
17 select the replacement chief of police from the qualified candidate
18 list provided by the community oversight board.

19 (~~((2) The requirement in this section applies beginning January
20 1, 2022, for local jurisdictions with a community oversight board or
21 similar oversight body that was in existence prior to the effective
22 date of this section.))~~)

23 NEW SECTION. **Sec. 6.** The requirements of this chapter apply to
24 any community oversight board created by a local jurisdiction on or
25 after the effective date of this section. A community oversight board
26 or similar oversight body that is in place in a local jurisdiction
27 prior to the effective date of this section must comply with the
28 requirements of this chapter by January 1, 2022, except in instances
29 in which full compliance would violate a federal consent decree or
30 other mandate. Nothing in this chapter shall be interpreted to
31 indicate that political subdivisions other than local jurisdictions
32 cannot establish or maintain a community oversight board or similar
33 oversight body.

34 NEW SECTION. **Sec. 7.** (1) Each local jurisdiction must report
35 its compliance in establishing a community oversight board that
36 aligns with the requirements in this chapter, or bringing an existing
37 community oversight board or similar oversight body into alignment

1 with the requirements in this chapter, to the Washington association
2 of sheriffs and police chiefs by January 1, 2025. If the local
3 jurisdiction does not have a community oversight board, or does not
4 have a community oversight board that is in compliance with this
5 chapter, it must provide a written explanation to the Washington
6 association of sheriffs and police chiefs by January 1, 2025. The
7 Washington association of sheriffs and police chiefs must compile the
8 submitted information into a report, which must be delivered to the
9 legislature by March 1, 2025.

10 (2) This section expires January 1, 2027.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 35.22
12 RCW to read as follows:

13 Any time an appointment is made for the position of chief of
14 police in a city that has a community oversight board, the
15 appointment must be made from a list of qualified candidates provided
16 by the board, as provided in section 4 of this act.

17 **Sec. 9.** RCW 35.23.021 and 1994 c 81 s 35 are each amended to
18 read as follows:

19 The government of a second-class city shall be vested in a mayor,
20 a city council of seven members, a city attorney, a clerk, a
21 treasurer, all elective; and a chief of police, municipal judge, city
22 engineer, street superintendent, health officer and such other
23 appointive officers as may be provided for by ordinance: PROVIDED,
24 That the council may enact an ordinance providing for the appointment
25 of the city clerk, city attorney, and treasurer by the mayor, which
26 appointment shall be subject to confirmation by a majority vote of
27 the city council. Such ordinance shall be enacted and become
28 effective not later than (~~thirty~~) 30 days prior to the first day
29 allowed for filing declarations of candidacy for such offices when
30 such offices are subject to an approaching city primary election.
31 Elective incumbent city clerks, city attorneys, and city treasurers
32 shall serve for the remainder of their unexpired term notwithstanding
33 any appointment made pursuant to this section and RCW 35.23.051. If a
34 free public library and reading room is established, five library
35 trustees shall be appointed. The city council by ordinance shall
36 prescribe the duties and fix the compensation of all officers and
37 employees: PROVIDED, That the provisions of any such ordinance shall
38 not be inconsistent with any statute: PROVIDED FURTHER, That where

1 the city council finds that the appointment of a full time city
2 engineer is unnecessary, it may in lieu of such appointment, by
3 resolution provide for the performance of necessary engineering
4 services on either a part time, temporary or periodic basis by a
5 qualified engineering firm, pursuant to any reasonable contract.

6 The mayor shall appoint and at his or her pleasure may remove all
7 appointive officers except as otherwise provided herein or in section
8 4 of this act: PROVIDED, That municipal judges shall be removed only
9 upon conviction of misconduct or malfeasance in office, or because of
10 physical or mental disability rendering the judge incapable of
11 performing the duties of his or her office. Every appointment or
12 removal must be in writing signed by the mayor and filed with the
13 city clerk.

14 **Sec. 10.** RCW 35.27.070 and 1997 c 361 s 3 are each amended to
15 read as follows:

16 The government of a town shall be vested in a mayor and a council
17 consisting of five members and a treasurer, all elective; the mayor
18 shall appoint a clerk and a marshal, subject to section 4 of this
19 act; and may appoint a town attorney, pound master, street
20 superintendent, a civil engineer, and such police and other
21 subordinate officers and employees as may be provided for by
22 ordinance. All appointive officers and employees shall hold office at
23 the pleasure of the mayor, subject to any applicable law, rule, or
24 regulation relating to civil service, and shall not be subject to
25 confirmation by the town council.

26 **Sec. 11.** RCW 35A.12.090 and 1987 c 3 s 15 are each amended to
27 read as follows:

28 The mayor shall have the power of appointment and removal of all
29 appointive officers and employees subject to any applicable law,
30 rule, or regulation relating to civil service, and section 4 of this
31 act. The head of a department or office of the city government may be
32 authorized by the mayor to appoint and remove subordinates in such
33 department or office, subject to any applicable civil service
34 provisions. All appointments of city officers and employees shall be
35 made on the basis of ability and training or experience of the
36 appointees in the duties they are to perform, from among persons
37 having such qualifications as may be prescribed by ordinance or by
38 charter, and in compliance with provisions of any merit system

1 applicable to such city. Confirmation by the city council of
2 appointments of officers and employees shall be required only when
3 the city charter, or the council by ordinance, provides for
4 confirmation of such appointments. Confirmation of mayoral
5 appointments by the council may be required by the council in any
6 instance where qualifications for the office or position have not
7 been established by ordinance or charter provision. Appointive
8 offices shall be without definite term unless a term is established
9 for such office by law, charter or ordinance.

10 **Sec. 12.** RCW 35A.13.080 and 2009 c 549 s 3025 are each amended
11 to read as follows:

12 The powers and duties of the city manager shall be:

13 (1) To have general supervision over the administrative affairs
14 of the code city;

15 (2) To appoint and remove at any time all department heads,
16 officers, and employees of the code city, except members of the
17 council, and subject to the provisions of any applicable law, rule,
18 or regulation relating to civil service, and section 4 of this act:
19 PROVIDED, That the council may provide for the appointment by the
20 mayor, subject to confirmation by the council, of a city planning
21 commission, and other advisory citizens' committees, commissions, and
22 boards advisory to the city council: PROVIDED FURTHER, That if the
23 municipal judge of the code city is appointed, such appointment shall
24 be made by the city manager subject to confirmation by the council,
25 for a four year term. The council may cause an audit to be made of
26 any department or office of the code city government and may select
27 the persons to make it, without the advice or consent of the city
28 manager;

29 (3) To attend all meetings of the council at which his or her
30 attendance may be required by that body;

31 (4) To see that all laws and ordinances are faithfully executed,
32 subject to the authority which the council may grant the mayor to
33 maintain law and order in times of emergency;

34 (5) To recommend for adoption by the council such measures as he
35 or she may deem necessary or expedient;

36 (6) To prepare and submit to the council such reports as may be
37 required by that body or as he or she may deem it advisable to
38 submit;

1 (7) To keep the council fully advised of the financial condition
2 of the code city and its future needs;

3 (8) To prepare and submit to the council a proposed budget for
4 the fiscal year, as required by chapter 35A.33 RCW, and to be
5 responsible for its administration upon adoption;

6 (9) To perform such other duties as the council may determine by
7 ordinance or resolution.

8 NEW SECTION. **Sec. 13.** Sections 2 through 4, 6, and 7 of this
9 act constitute a new chapter in Title 10 RCW.

10 NEW SECTION. **Sec. 14.** Section 5 of this act takes effect
11 January 1, 2025.

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