

ESB 5352 - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

ADOPTED 04/10/2023

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

3 **"Sec. 1.** RCW 10.116.060 and 2021 c 320 s 7 are each amended to
4 read as follows:

5 (1) A peace officer may not engage in a vehicular pursuit,
6 unless:

7 (a) ~~((i))~~ There is ~~((probable cause))~~ reasonable suspicion to
8 believe that a person in the vehicle has committed or is committing
9 ~~((a))~~:

10 (i) A violent offense ~~((or))~~ as defined in RCW 9.94A.030;

11 (ii) A sex offense as defined in RCW 9.94A.030 ~~((, or an))~~;

12 (iii) A vehicular assault offense under RCW 46.61.522;

13 (iv) An assault in the first, second, third, or fourth degree
14 offense under chapter 9A.36 RCW only if the assault involves domestic
15 violence as defined in RCW 10.99.020;

16 (v) An escape under chapter 9A.76 RCW; or

17 ~~((ii) There is reasonable suspicion a person in the vehicle has~~
18 ~~committed or is committing a)~~ (vi) A driving under the influence
19 offense under RCW 46.61.502;

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

22 (c) The person poses ~~((an imminent threat to the safety of))~~ a
23 serious risk of harm to others and the safety risks of failing to
24 apprehend or identify the person are considered to be greater than
25 the safety risks of the vehicular pursuit under the circumstances;
26 and

27 (d) (i) Except as provided in (d) (ii) of this subsection, the
28 ~~((officer has received authorization to engage in the pursuit from))~~
29 pursuing officer notifies a supervising officer ~~((and))~~ immediately
30 upon initiating the vehicular pursuit; there is supervisory
31 ~~((control))~~ oversight of the pursuit ~~((The))~~; and the pursuing
32 officer, in consultation with the supervising officer ~~((must~~

1 ~~consider)), considers alternatives to the vehicular pursuit(~~(. The~~
2 ~~supervisor must consider)),~~ the justification for the vehicular
3 pursuit and other safety considerations, including but not limited to
4 speed, weather, traffic, road conditions, and the known presence of
5 minors in the vehicle(~~(, and the vehicular pursuit must be terminated~~
6 ~~if any of the requirements of this subsection are not met))~~);~~

7 (ii) For those jurisdictions with fewer than ~~((10))~~ 15
8 commissioned officers, if a supervisor is not on duty at the time,
9 the pursuing officer (~~(will request))~~ requests the on-call supervisor
10 be notified of the pursuit according to the agency's procedures(~~(-~~
11 ~~The)),~~ and the pursuing officer (~~(must consider))~~ considers
12 alternatives to the vehicular pursuit, the justification for the
13 vehicular pursuit, and other safety considerations, including but not
14 limited to speed, weather, traffic, road conditions, and the known
15 presence of minors in the vehicle. (~~(The officer must terminate the~~
16 ~~vehicular pursuit if any of the requirements of this subsection are~~
17 ~~not met.))~~)

18 (2) (~~(A pursuing))~~ In any vehicular pursuit under this section:

19 (a) The pursuing officer and the supervising officer, if
20 applicable, shall comply with any agency procedures for designating
21 the primary pursuit vehicle and determining the appropriate number of
22 vehicles permitted to participate in the vehicular pursuit (~~(and~~
23 ~~comply))~~;

24 (b) The supervising officer, the pursuing officer, or dispatcher
25 shall notify other law enforcement agencies or surrounding
26 jurisdictions that may be impacted by the vehicular pursuit or called
27 upon to assist with the vehicular pursuit, and the pursuing officer
28 and the supervising officer, if applicable, shall comply with any
29 agency procedures for coordinating operations with other
30 jurisdictions, including available tribal police departments when
31 applicable;

32 (c) The pursuing officer must be able to directly communicate
33 with other officers engaging in the pursuit, the supervising officer,
34 if applicable, and the dispatch agency, such as being on a common
35 radio channel or having other direct means of communication;

36 (d) As soon as practicable after initiating a vehicular pursuit,
37 the pursuing officer, supervising officer, if applicable, or
38 responsible agency shall develop a plan to end the pursuit through
39 the use of available pursuit intervention options, such as the use of
40 the pursuit intervention technique, deployment of spike strips or

1 other tire deflation devices, or other department authorized pursuit
2 intervention tactics; and

3 (e) The pursuing officer must have completed an emergency vehicle
4 operator's course, must have completed updated emergency vehicle
5 operator training in the previous two years, where applicable, and
6 must be certified in at least one pursuit intervention option.
7 Emergency vehicle operator training must include training on
8 performing the risk assessment analysis described in subsection
9 (1)(c) of this section.

10 (3) A vehicle pursuit not meeting the requirements under this
11 section must be terminated.

12 ~~((3))~~ (4) A peace officer may not fire a weapon upon a moving
13 vehicle unless necessary to protect against an imminent threat of
14 serious physical harm resulting from the operator's or a passenger's
15 use of a deadly weapon. For the purposes of this subsection, a
16 vehicle is not considered a deadly weapon unless the operator is
17 using the vehicle as a deadly weapon and no other reasonable means to
18 avoid potential serious harm are immediately available to the
19 officer.

20 ~~((4))~~ (5) For purposes of this section, "vehicular pursuit"
21 means an attempt by a uniformed peace officer in a vehicle equipped
22 with emergency lights and a siren to stop a moving vehicle where the
23 operator of the moving vehicle appears to be aware that the officer
24 is signaling the operator to stop the vehicle and the operator of the
25 moving vehicle appears to be willfully resisting or ignoring the
26 officer's attempt to stop the vehicle by increasing vehicle speed,
27 making evasive maneuvers, or operating the vehicle in a reckless
28 manner that endangers the safety of the community or the officer.

29 NEW SECTION. Sec. 2. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect immediately."

33 Correct the title.

EFFECT: Requires a pursuing officer in a jurisdiction with fewer
than 15, rather than 10, commissioned officers to request the on-call
supervisor be notified of the pursuit. Provides that the emergency
vehicle operator training required for pursuing officers must include
training on performing the risk assessment analysis of whether a
person being pursued poses a serious risk of harm to others and the

safety risks of failing to apprehend or identify the person are considered greater than the safety risks of the pursuit.

--- **END** ---