

HOUSE BILL REPORT

HB 1363

As Reported by House Committee On:

Community Safety, Justice, & Reentry
Transportation

Title: An act relating to vehicular pursuits.

Brief Description: Concerning vehicular pursuits.

Sponsors: Representatives Rule, Robertson, Shavers, Mosbrucker, Reeves, Leavitt, Paul, Griffey, Timmons, Bronoske, Klicker, Walen, Hackney, Couture, Maycumber, Corry, Cortes, McClintock, Davis, Bergquist, Christian, Connors, Dent, Jacobsen, Sandlin, Rude, Stokesbary, Barkis, Graham, Chapman, Ryu, Lekanoff, Wylie, Springer, Callan, Cheney, Orcutt, Stonier, Caldier and Berg.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/31/23, 2/16/23 [DPS];

Transportation: 2/20/23, 2/23/23 [DPS(CSJR)].

Brief Summary of Substitute Bill

- Modifies the evidentiary threshold required for engaging in a vehicular pursuit by allowing an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing a violent offense, a sex offense, a Vehicular Assault offense, an Assault offense involving domestic violence, an Escape, or a Driving Under the Influence offense.
- Limits vehicular pursuits to situations where the subject of the vehicular pursuit poses a serious risk of harm to others.
- Modifies certain vehicular pursuit requirements related to supervisory authorization and control, and establishes new requirements related to direct communication with specified entities, development of a plan to end the vehicular pursuit, and the pursuing officer's training and

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certifications.

- Provides that the amendatory provisions related to vehicular pursuits expire on July 1, 2025.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Fosse, Graham and Ramos.

Minority Report: Do not pass. Signed by 1 member: Representative Farivar.

Staff: Corey Patton (786-7388).

Background:

A "vehicular pursuit" is an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer. When engaging in a vehicular pursuit, the officer may violate certain rules of the road including, for example, stop signals, speed limits, and parking restrictions.

An officer may not engage in a vehicular pursuit unless:

- there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense, or an Escape, or there is reasonable suspicion that a person in the vehicle has committed or is committing a Driving Under the Influence offense;
- the vehicular pursuit is necessary for the purpose of identifying or apprehending the person;
- the person poses an imminent threat to the safety of others; and
- the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances.

The officer must receive authorization from a supervisor to engage in the vehicular pursuit and there must be supervisory control, or, in jurisdictions with fewer than 10 commissioned officers, the officer must request the on-call supervisor be notified if a supervisor is not on duty at the time. The officer and supervisor (when applicable) must consider alternatives to

the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations. The officer must terminate the vehicular pursuit if any of these requirements are not met.

The officer must also comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit and comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable.

Summary of Substitute Bill:

The evidentiary threshold required for engaging in a vehicular pursuit is modified to allow an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing any of the following:

- a violent offense;
- a sex offense;
- a Vehicular Assault offense;
- an Assault in the first, second, third, or fourth degree offense involving domestic violence;
- an Escape; or
- a Driving Under the Influence offense.

The provision limiting vehicular pursuits to situations where the subject of the vehicular pursuit poses an imminent threat to the safety of others is modified to instead limit vehicular pursuits to situations where the subject poses a serious risk of harm to others. The provisions related to supervisory authorization and control of vehicular pursuits are modified to instead require an officer to notify a supervisor immediately upon initiating the vehicular pursuit, and require supervisory oversight of the vehicular pursuit. In jurisdictions with fewer than 10 commissioned officers, the officer must request the on-call supervisor be notified if a supervisor is not on duty at the time.

The vehicular pursuit must also adhere to the following additional requirements:

- The officer, supervisor (when applicable), or dispatcher must notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit.
- The officer must be able to directly communicate with other officers engaging in the vehicular pursuit, the supervisor (when applicable), and the dispatch agency, such as by being on a common radio channel or having other direct means of communication.
- As soon as practicable after initiating the vehicular pursuit, the officer, supervisor (when applicable), or responsible agency must develop a plan to end the vehicular pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or other tire deflation devices, or other department-authorized pursuit intervention tactics.

- The officer must have completed an emergency vehicle operator's course, completed updated emergency vehicle operator training in the previous two years (when applicable), and be certified in at least one pursuit intervention option.

On July 1, 2025, the amendatory provisions related to vehicular pursuits expire, and current law is reinstated.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) provides that an officer may not engage in a vehicular pursuit unless there is reasonable suspicion that a person in the vehicle has committed or is committing a violent offense, a sex offense, a Vehicular Assault offense, an Assault offense involving domestic violence, an Escape, or a Driving Under the Influence offense; (2) provides that an officer may not engage in a vehicular pursuit unless the person being pursued poses a serious risk of harm to others; (3) restores the provision in current law that limits a vehicular pursuit to situations where the vehicular pursuit is necessary for the purpose of identifying or apprehending the person being pursued; (4) provides that, for a vehicular pursuit in a jurisdiction with 10 or more commissioned officers, the pursuing officer must notify a supervising officer immediately upon initiating the vehicular pursuit and there must be supervisory oversight, including the supervising officer's compliance with specific requirements related to the vehicular pursuit where applicable; (5) provides that, for a vehicular pursuit in a jurisdiction with fewer than 10 commissioned officers, the pursuing officer must request the on-call supervisor be notified if a supervisor is not on duty; (6) provides an emergency clause with an immediate effective date; and (7) provides that the amendatory provisions related to vehicular pursuits expire on July 1, 2025.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 16, 2023.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Following recent changes to state law, there has been a huge escalation in retail theft and other criminal activity, including several examples of people not being pursued after committing violent crimes. Even in jurisdictions that already had strong no-pursuit policies, the number of people refusing to stop for traffic infractions has increased. There is open lawlessness and disregard for law enforcement. Current law benefits criminals who know all they have to do is drive away. It is difficult to connect a specific driver to a license plate, and officers may have no leads to follow if a suspect driving a stolen vehicle or a vehicle with stolen license plates escapes. The impact on communities in Washington

has been immeasurable and changes need to be made immediately to avoid more needless deaths and damage. Law enforcement is complex and sometimes requires policies to be reconsidered and revised after they are implemented.

Incidents occur quickly, so officers need the discretion to pursue when they have reasonable suspicion of a criminal offense, including crimes like Assault in the fourth degree and Stalking. While many police reform efforts have justifiably held officers responsible for their actions, officers must also be empowered to safely do the work they have been tasked with. Washington's policing culture is community-oriented, healthy, and supported by residents. The current approach to regulating vehicular pursuits is not right because a one-size-fits-all policy does not work for every community in Washington. There should be leeway for matching the diverse needs of different communities, because everyone in those communities deserves to be safe. The people who are hurt the most by crime tend to be the most vulnerable people in affected communities, such as people of color.

This bill will prioritize safety by recognizing that vehicular pursuits are inherently dangerous and should only be undertaken when they are necessary and can be conducted safely. The revisions in this bill will strike the right balance between compliance with law enforcement and the safety of victims and bystanders by including clear vehicular pursuit procedures, termination requirements, and certification and training requirements. It is also critical that this bill retains the ability for jurisdictions to adopt supplemental standards.

(Opposed) The recent changes to prohibit vehicular pursuits were put in place to address the deaths of bystanders who were collateral damage in vehicular pursuits. There has been a substantial decrease in injuries and fatalities since these changes. Some counties already had more restrictive policies before the current law was put in place. The evidence is indicating that fatalities have decreased without unintended consequences like increased crime. Vehicular pursuits do not always result in arrests. The real problem is that officers choose to not operate within the scope of the law, which allows vehicular pursuits for probable cause of certain crimes, because they want to roll back restrictions. It is important to acknowledge the pain felt by families impacted by the current law, but rolling back protections will not make Washington safer.

The proposed expansion of authorization in this bill is overbroad. Additional data needs to be collected and further studies need to take place before changing current policies. There is some support for a work group to allow for more careful deliberation. Keep the current law in place, it is working as intended. Police violence never has just one victim. It impacts families, communities, and future generations. There must be real advances in justice for people of color.

Persons Testifying: (In support) Representative Alicia Rule, prime sponsor; Jill Boudreau, City of Mount Vernon; Jeff DeVere, Washington Council of Police and Sheriffs; Mary Lou Pauly, City of Issaquah; Jason Whalen, City of Lakewood; Rafael Padilla, City of Kent; Amber Goldade; Amy Ockerlander, Association of Washington Cities; Jim Ferrell, City of

Federal Way; Tracie Markley, City of Gig Harbor; Kyle Hardtke; James McMahan, Washington Association of Sheriffs and Police Chiefs; and Derek Sanders, Thurston County.

(Opposed) Michelle Feldman, Center for Policing Equity; Andrea Caupain Sanderson, BIPOC ED Coalition of Washington; Nিকেিয়া Hunter, Kurtis Robertson, and Leslie Cushman, Washington Coalition for Police Accountability; and Martina Morris, Next Steps Washington.

Persons Signed In To Testify But Not Testifying: More than 20 persons signed in. Please see committee staff for information.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill by Committee on Community Safety, Justice, & Reentry be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Fey, Chair; Donaghy, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Bronoske, Chapman, Cortes, Dent, Duerr, Goehner, Griffey, Hackney, Klicker, Orcutt, Ramel, Schmidt, Volz, Walsh and Wylie.

Minority Report: Do not pass. Signed by 5 members: Representatives Berry, Doglio, Entenman, Mena and Taylor.

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

Staff: Beth Redfield (786-7140).

Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Community Safety, Justice, & Reentry:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Violent crimes are up dramatically across the state. The people committing these crimes are simply driving away, without consequences. According to the Washington State Patrol, before the recent change in the pursuit law, between 2014 and 2020, an average of 1,200 suspects per year fled from police. In 2022 after the standard changed to probable cause, 3,100 suspects fled, a spike of over 150 percent. Our communities are not the same and this will allow locals to amend their pursuit policies to address local safety needs. It does mandate that officers balance risk and safety of the pursuit versus the surrounding area and bystanders. The bill does not go far enough; it does not include stolen vehicles or other property crimes. People are using stolen vehicles to commit other crimes, robberies, burglary, and violent crimes. They do this so they can commit the crime anonymously and get away without being identified. Restoring the ability of law enforcement to pursue is a critical component to keeping our communities safe. The bill is a good start, restoring reasonable suspicion is important, but also needs an expansion of the list of crimes that law enforcement can pursue for. Innocent people are dying when officers cannot pursue criminals. Every department in the state has a pursuit policy. Most pursuits are terminated by a supervisor or the officers themselves.

My business was burglarized twice by the same people and the police were not able to pursue. On the second burglary, landscape trucks were stolen and committed vehicular homicide killing a young woman and injuring another. If the officers had been able to pursue, it would have prevented a murder. This needs to be fixed immediately. My daughter and her best friend were victims of the no vehicular pursuit law. My daughter was killed instantly and the man who did it did not even bother to stop and only thought of escaping the scene of the crime.

Cities have identified this as a priority for the 2023 legislative session. This is a complicated issue, it is not surprising that we need to go back and revisit and revise reforms adopted in 2021. Residents feel unsafe and 79 percent indicated support for revising this restriction and using a reasonable suspicion standard. It is also critical that cities are able to make their own decisions about more restrictive police pursuit policies. Violent offense has a statutory definition not a colloquial one, which needs to be considered here. Chiefs and Sheriffs are trained to do this tactic well but that same cannot be said of the thousands who have been documented fleeing, often in a reckless manner.

(Opposed) In 2020 tens of thousands of your constituents across Washington gathered to highlight the urgent need to stop police violence. The 2021 Legislature listened. Vehicular pursuits were the second leading cause of officer-involved killings, they are inherently dangerous. Cities and counties had already restricted this tactic because their risk managers were asking for it. Risk managers continue to be right. These are adrenalin-fueled chases where uninvolved drivers, walkers, cyclists are most at risk of death. Pursuits have continued for carjackings, armed robberies, shootings, and DUIs. Law enforcement should share their data on how many pursuits they have engaged in since the law was enacted. Washington has solved the problem of police violence from pursuits while reserving the use of this tactic for the most serious of crimes. There will be an increase in deaths if the law is

rolled back. This discussion takes place in the intersection of public safety and safe streets. At a time when the Legislature has given the Washington State Department of Transportation the green light to seek safety solutions, this bill deregulates dangerous police chases which end as often in crashes as they do in arrests. The conversation about public safety should not begin with policing. Pursuits should be controlled by a dispassionate supervisor, not the initiating officer who is invested in it. Reasonable suspicion is sufficient to detain a person walking down the sidewalk but is not sufficient to launch a 4,000-pound bullet down the road. The bill elevates the value of property over the value of human life. In the year and a half since current policy was adopted, the number of pursuit fatalities has dropped from nine people to three people. Evidence does not support the claims that the current law has caused crime rates to rise. Crime rates were rising before the policy was adopted and rose in states across the country and not just in Washington. A Pierce County audit found that a pursuit is more likely to result in an accident than an arrest in the three years before the reform. Current law clearly describes the conditions for a pursuit. People should not be dying over the recovery of property. There is a need to pause and look at the safest policy. There is a need to capture the voices of law enforcement and the community. Changing the existing law without facts and evidence is a bad idea. People have said that this is about local control but working parents and regular people have not been at the table. Because of redlining many communities have less safe transportation infrastructure making them the most vulnerable to police chases that go wrong. It is important to have statewide standards before we know the effects of this law.

(Other) Our city had a strict pursuit vehicle policy in place. The statewide policy does not include stolen vehicles. Car theft is up dramatically. Many violent crimes are committed with a stolen vehicle. This has created a sense of lawlessness. The ability for law enforcement to pursue for reasonable suspicion of a crime is a critical tactic for community safety.

Persons Testifying: (In support) Representative Alicia Rule, prime sponsor; C Davis; Dana Ralph, City of Kent; Kyle Hardtke; Brett Gailey, City of Lake Stevens; Candice Bock, Association of Washington Cities; Amber Goldade; Joe Kunzler; Taylor Gardner, Washington Association of Sheriffs and Police Chiefs; Paul Herrera, Pierce County Council District 2; Derek Sanders, Thurston County; John Horch, Clark County Sheriff's Office; and Rebecca Mertzig, Bellingham Police Department.

(Opposed) Shaun Scott; M. Lorena Gonzalez, American Civil Liberties Union of Washington; Martina Morris and Paul Benz, Washington Coalition for Police Accountability; David Trieweiler, Washington Association of Criminal Defense Lawyers and Washington Defender Association; Samuel Martin, Washington for Black Lives; Kathryn Kravit-Smith; Sheley Anderson, The National Association for the Advancement of Colored People State Area Conference; and Kamau Chege, Washington Community Alliance.

(Other) Jim Ferrell, City of Federal Way; and Nancy Backus, City of Auburn.

Persons Signed In To Testify But Not Testifying: Rachel Olson; and Nicholas van den Heuvel.