

# SENATE BILL REPORT

## ESSB 6009

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As Amended by House, February 28, 2024

**Title:** An act relating to prohibiting the use of hog-tying.

**Brief Description:** Prohibiting the use of hog-tying.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Trudeau, Lovick, Frame, Hasegawa, Nguyen, Nobles, Saldaña, Stanford, Valdez, Wellman and Wilson, C.).

**Brief History:**

**Committee Activity:** Law & Justice: 1/22/24, 1/25/24 [DPS].

**Floor Activity:** Passed Senate: 2/6/24, 49-0.

Passed House: 2/28/24, 89-7.

**Brief Summary of Engrossed First Substitute Bill**

- Prohibits peace officers from hog-tying a person or assisting in putting a person into a hog-tie.
- Provides that hog-tying constitutes the use of excessive force.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 6009 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

**Staff:** Ryan Giannini (786-7285)

**Background:** Requirement to Intervene and Report. Identifiable on-duty peace officers who witness another peace officer engaging or attempting to engage in the use of excessive

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

force against another person are required to intervene, when in a position to do so, to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force, and render aid at the earliest safe opportunity. Additionally, identifiable on-duty peace officers who witness another peace officer engaged in conduct unlawful or contrary to agency policy are required to report the conduct to their supervisor.

**Summary of Engrossed First Substitute Bill:** A peace officer is prohibited from hog-tying a person or assisting in putting a person into a hog-tie. Hog-tying constitutes the use of excessive force for purposes of a peace officer's duty to intervene and report.

Hog-tie or hog-tying means fastening together bound or restrained ankles to bound or restrained wrists.

Hog-tie or hog-tying does not include the following:

- use of transport chains or waist chains to transport prisoners; or
- use of a product or device that does not require the person's knees to be flexed while their wrists are handcuffed behind the back and secured to bound ankles.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Proposed Substitute.** *The committee recommended a different version of the bill than what was heard.* PRO: The law enforcement profession must secure public trust and accountability. This is why the Legislature made policy decisions to discontinue practices and tactics that dehumanize and create unnecessary risks to people that law enforcement serve. The term hog-tying originally comes from something that is applied to pigs and animals. Hog-tying is animalistic, extremely dangerous, and inhumane. The practice makes it hard for a person to get oxygen. Hog-tying carries a particularly high risk when used in the field, since even the best officers can overlook signs of asphyxiation. The practice is disproportionately used against indigenous, black, brown, and other people of color when police have discretion. Other major metropolitan areas have had bans on the practice for decades, like Los Angeles, which banned the practice in 1977. The Department of Justice has recommended eliminating the use of hog-tying since 1995. The Attorney General Office's use of force model policy says this practice should be discontinued. The Criminal Justice Training Commission does not train on this practice. Hog-tying has been discontinued by most, but not all, jurisdictions. Law enforcement needs to have clear statewide guidance, as this cannot be left to commanders at the local level. The state has shown leadership in the past for discontinuing dangerous practices such as chokeholds and neck restraints. This is

another small step towards accountability. It is time to finalize the end of this tactic in Washington State.

CON: A restrained person can still present a danger to themselves and others, including law enforcement. The Legislature should not prohibit the tools and tactics necessary to prevent a person from being a harm to law enforcement or themselves. Law enforcement wants to do this in the safest and most humane way possible. To that end, law enforcement agencies have found new equipment to be just as effective, safe, and more humane than hog-ties. The unintended oversight of the definition in this bill is that it would prohibit the use of these more effective and more humane alternatives. The definition in this bill would unintentionally prohibit a very common, humane tactic used in correctional entities to escort or transport people from one place to another. Instead of banning this tactic entirely, the Legislature should facilitate the use of better alternatives. A grant program is envisioned to acquire better alternatives, where grant recipients must agree to prohibit the use of hog-ties in their policies as a condition of receiving funds. This approach will phase out use of hog-ties while simultaneously replacing equipment with better equipment. The job of officers is to keep people safe, and sometimes that is not pretty. What we want is the safest, most humane way possible to keep people safe, and we want the Legislature to help us accomplish this shared goal.

**Persons Testifying:** PRO: Senator Yasmin Trudeau, Prime Sponsor; Victoria Woodards, Mayor of the City of Tacoma; Jamika Scott, Tacoma City Councilmember; Trishandra Pickup, WA Coalition for Police Accountability; Heather Kelly, League of Women Voters of Washington; Nickeia Hunter, WA Coalition for Police Accountability; Kurtis Robinson, WA Coalition for Police Accountability; Monet Carter-Mixon.

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** No one.

**EFFECT OF HOUSE AMENDMENT(S):**

- Clarifies that prohibitions on hog-tying shall not be interpreted to prohibit the use of any other alternative restraint product or device that is administered to reduce the incidence of respiratory fatigue or positional asphyxia if such product or device does not violate the prohibitions on hog-tying.