

SENATE BILL REPORT

SI 2113

As Reported by Senate Committee On:
Law & Justice, March 1, 2024

Title: An act relating to vehicular pursuits by peace officers.

Brief Description: Concerning vehicular pursuits by peace officers.

Sponsors: People of the State of Washington.

Brief History:

Committee Activity: Law & Justice: 2/28/24, 3/01/24 [DP, DNP, w/oRec].

Brief Summary of Bill

- Expands authorization for vehicular pursuits by allowing an officer to conduct a vehicular pursuit where there is reasonable suspicion a person has violated the law.
- Modifies the risk assessment for engaging in vehicular pursuits by providing that an officer may not engage in a vehicular pursuit unless the person poses a 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 of the vehicular pursuit under the circumstances.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Padden, Ranking Member; McCune, Salomon, Torres, Wagoner and Wilson, L..

Minority Report: Do not pass.

Signed by Senators Trudeau, Vice Chair; Kuderer and Valdez.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Pedersen.

Staff: Joe McKittrick (786-7287)

Background: Initiative Process. Article II, Section 1, of the Washington State Constitution authorizes the initiative process, allowing the people to place a proposition on the ballot or to submit the proposed law to the Legislature. If an initiative to the Legislature is certified, the Legislature must take one of the following three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the measure, under either case the measure will automatically be placed on the ballot in the next state general election; or
- propose an alternative measure, in which case the initiative and alternative will both appear on the ballot as competing measures in the next state general election.

Vehicle Pursuits. Law enforcement officers with arrest authority may engage in fresh pursuit of a person who is reasonably believed to have committed a violation of traffic or criminal laws or for whom the officer has an arrest warrant. This includes engaging in a vehicular pursuit of a person who is fleeing in a vehicle. When engaged in a vehicular pursuit, an officer may violate certain rules of the road, including stop signals, speed limits, and parking restrictions.

A vehicle pursuit is an attempt by a uniformed peace officer, in a vehicle equipped with emergency lights and a siren, to stop a moving vehicle when the operator of the vehicle appears to be aware the officer is signaling the operator to stop the vehicle, and the operator of the 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.

In 2021 the Legislature passed ESHB 1054 which, in part, codified state-wide regulations on vehicle pursuits. The law prohibited vehicle pursuits unless:

- there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense, or escape offense, or there is reasonable suspicion that a person in the vehicle has committed or is committing a driving under the influence offense;
- the pursuit is necessary for the purpose of identifying or apprehending the person; and
- the person fleeing poses an imminent threat to the safety of others and the safety risk 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.

To engage in the vehicular pursuit the officer must have received authorization from a supervising officer, and there must be supervisory control of the pursuit. The supervising officer is required to consider the justification for the pursuit and safety factors such as speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

The bill provided exceptions to the supervisory control requirement for agencies with fewer than ten commissioned officers if a supervisor was not on duty. However, in this circumstance, the pursuing officer was still obligated to comply with the same requirements and safety considerations in evaluating whether to conduct or terminate the pursuit.

In 2023 the Legislature passed ESSB 5352 which amended the statute regulating vehicular pursuits. Under the new law, the evidentiary threshold to engage in a pursuit was lowered from probable cause to a reasonable suspicion a person in the vehicle has committed or is committing one of the enumerated offenses, and vehicular assaults and domestic violence assaults were added to the list of crimes for which an officer could engage in a pursuit. The bill also modified the risk assessment for engaging in vehicular pursuits by providing that an officer may not engage in a vehicular pursuit unless the fleeing person poses a serious risk of harm, rather than an imminent threat, to the safety of others.

The following changes were made to the vehicular pursuit statute:

- rather than receiving authorization from a supervising officer, the pursuing officer must immediately notify a supervising officer;
- jurisdictions with 15, rather than 10, commissioned officers must request the on-call supervisor be notified of the pursuit;
- the supervising officer, the pursuing officer, or dispatcher must notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit and must comply with any agency procedures for coordinating operations with other jurisdictions;
- the pursuing officer must be able to directly communicate with other officers engaging in the pursuit, the supervising officer, and the dispatch agency;
- as soon as practicable after initiating the pursuit, the pursuing officer, supervising officer, or the responsible agency must develop a plan to end the pursuit through the use of available pursuit intervention options; and
- to engage in a pursuit, the pursuing officer must have completed an emergency vehicle operator's course, must have completed updated emergency vehicle operator training within the previous two years, where applicable, and must be certified in at least one pursuit intervention option.

A vehicle pursuit not meeting these requirements must be terminated.

Summary of Bill: The statute regulating vehicular pursuits is amended. The evidentiary threshold required for engaging in a vehicular pursuit is modified to allow an officer to conduct the vehicular pursuit where there is reasonable suspicion a person has violated the law, provided all other statutory requirements for the vehicular pursuit are met.

The required risk assessment for the vehicular pursuit is modified to specify that an officer may not engage in the vehicular pursuit unless the person poses a 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 of the vehicular pursuit under the circumstances.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This initiative leaves in place the standards of training and supervision, and changes only the standard of discretion a pursuing officer has to meet to engage in a pursuit. This will give officers the ability to utilize their training and experience to more effectively enforce the law. Crime is increasing in our state. Officers need the ability to chase bad people. This initiative is the best thing we can do to aid our officers. This restores the authority of local jurisdictions to make the decision of when to engage in a pursuit. Current law has resulted in a disregard for the law, foments a distrust of police, and reduces morale of officers. Law enforcement officers recognize the danger of pursuits, but restricting pursuits and allowing criminals to escape is not the solution. Since the pursuit law was enacted significantly more people are fleeing from police. We cannot continue fostering an environment that empowers criminals, jeopardizes public safety, and diminishes the rule of law. Limiting when officers can pursue criminals has already led to deaths in our community. We cannot wait until November for change. Passing this initiative will help prevent future tragedies.

CON: When police prioritize public safety, citizens can stop worrying about their children being the next victims of police violence. This initiative seeks to drag back state law. Allowing vehicular pursuits for any infraction makes the streets more dangerous. Unrestricted vehicular pursuits do not make sense. The current law saves lives and is balanced effective and aligns with best practices.

OTHER: Pursuits are high risk activities. The consensus between national law enforcement executives is to prohibit pursuits for non-violent offenses. When you reduce the number of pursuits, it does not impact crime rates. One issue that must be considered is that police do not have the ability to stop a fleeing suspect unless the officer utilizes deadly force. Although some situations require a pursuit, data shows the majority of pursuits increase the risk of safety of the community and the pursuing officers. Most pursuits are for non-violent crimes. Pursuits are costly and often result in racial disparities. While the standards in the initiative and current law differ, both strike a balance. It is important to have laws that stay current with the concerns of society.

Persons Testifying: PRO: James McMahan, WA Assoc Sheriffs & Police Chiefs; Brian Heywood; Amber Goldade; Jim Walsh.

CON: Sonia Joseph, WA Coalition for Police Accountability.

OTHER: Geoffrey Alpert, University of South Carolina; James Schrimpsheer, Washington State Fraternal Order of Police; Josh Parker, Policing Project at New York University School of Law.

Persons Signed In To Testify But Not Testifying: PRO: Anthony Mixer, Washington State Young Republicans; Eric pratt, America; Jie Xie; Dawn Land; Tim Eyman, Initiative activist; Mark Johnson, Washington Retail Association; Michelle Ranous, Conservative Ladies of Washington; Colleen Rupke; Gregor Doerr, Washington State Young Republicans; Laurie Layne, Layne Software; Braden Sisk, Let's Go Washington; Tad Sommerville; Jason Whalen, Mayor, City of Lakewood; Mayor Jim Ferrell, City of Federal Way; Chief Andy Hwang, City of Federal Way Police Department; Diana Stadden; Yazhao Qiu; Alan Shreaves; Anna Zhou; Ping Luo; Helen Xu; Rebecca Zou; Andrew Rolwes, Downtown Spokane Partnership; William Ji; Walter Schuette; Valeriy Kalchik; David Fitzgerald; Nichole Gould; Michael Dunn, Dunn Lumber Co.; Monica Spence; Dominique France; Kathleen Lawson; Adriana Roman; Karen Snyder, 3313 106th Ave E; Salina Evans; Angela Fowler; Phil McNiven; Jeannette Mcchesney; Harold Seale; Hui Su; Jennifer Veselka; Jeanne Petershagen; Ted LaPoint; Kate Zhang; Brian Drinkwine; Dawn Siler; Paulene Dougherty; Scott Klakken; Grace Yan; William Black, Carjack Victim; Matthew Smith; Elaine Badejo; JAMES Derouin jr, self; Beibei Cheng; Jenny Holmstrom; Charles Green; Corina Kingdon; Yun Liu; Emma Liu; William Liu; Jan Davis; Commissioner Amanda McKinney, Yakima County; Guangyu Chen, Sofi; jon karsunky; Jill Brown; Tricia Small; Steve Earle; John Edwards; Brian Yotz; scot walston; Corey Christensen; Matthew Smith, n/a; Charlene Yotz; Laurie Langley; Christina Tseu; Teresa Jorgenson; James Lockwood; Elizabeth Cousins; Robert Johnson; Kim Vogley; Leslie Peterson; Cindy Alia, Citizens' Alliance for Property Rights; mark richard, PCO 9028; David Ross; Deidre Huff, Echo ridge apartments; Marlene Bostic; Don Bostic; Georgia Ragsdale; David L Harding, Self; Robert Shiras, PC Mobile Inc.; George Stone; PATRICIA BAUER, none; Annella Coffman; Joanne Backus; Kevin Morris, Stand Up Federal Way Non Connected Political Action Committee; Yuhua Liu; Dr. AnnRené Joseph; Rebecca Gwaltney; Chris Kay; Sherry Christensen; Randal Lewis, Retired; Lz Sapp; Jom Sapp; Cynthia Radtke; Marilou Brown; Jerry Radtke; Kathy Repass; Fred Repass; Shannon Faulkner; Chaune Fitzgerald; Michelle Lamb; Judy Eagon; KARI FINNEY; Paul Hill; Merry Engelhardt; John Gese, Kitsap County Sheriff; Ryan Spurling, Mason County Sheriff; Derek Sanders, Thurston County Sheriff; Eileen Harris, 1171 E. Old Ranch Rd; Gregory Jenney; Brieanne Bressler; Mayor Tracie Markley, Gig Harbor; Lisa Olson; Donna Hubach; Beryl Kelley, Self; Susan Hughes; Janet He; Gregory Akopyan; Melinda Nelson; John Ley; Dee Hughes; Michelle Hughes; Bill Fleischacker, Bill Fleischacker; Peter Skelley; DR JANIS CLARK, Safe Homes Intl; Jennifer Courtney; Judy Hollinger; Clay Serenbetz; Trinity Stucker; Ryan Tong, 304 145th pl; Xiao Tong; KIM HILBY, Prefix *; Robert Geyer; Delmer Eldred; Amber Belanger; Morgan Jensen; Tracy Geiss.

CON: Scott Johnson; Desirée Toliver; Enoka Herat, ACLU; David Ortman, n.a.; Kamil

Zaidi, Northwest Progressive Institute.

OTHER: Roger Case.