

# Proposed Substitute House Bill 1054

H-0416.2/21

By Representative Johnson

## **Brief summary of the original bill:**

- Prohibits peace officers from using chokeholds and neck restraints.
- Prohibits peace officers from using unleashed police dogs to arrest or apprehend persons.
- Prohibits law enforcement agencies from acquiring or using tear gas and certain types of military equipment.
- Prohibits uniformed peace officers from intentionally covering, concealing, or obscuring the number or other identifying information on their badges.
- Prohibits a peace officer from seeking, and a court from issuing, a search or arrest warrant granting an express exception to the "knock and announce" rule.
- Establishes restrictions on vehicular pursuits.

## **The proposed substitute makes the following changes to the original bill:**

- Expands the definition of "law enforcement agency" to include all limited authority Washington law agencies (in addition to agencies included in the underlying bill).
- Modifies the definition of "peace officer" by providing that it includes any general authority Washington peace officer, limited authority Washington peace officer, and specially commissioned Washington peace officer, and any employee, whether part-time or full-time, of a jail, correctional, or detention facility who is responsible for the custody, safety, and security of adults or juveniles confined in the facility (rather than providing that a peace officer includes law enforcement personnel and correctional personnel, as those terms are defined in the statutes governing the Criminal Justice Training Commission (CJTC), employed or commissioned by a law enforcement agency).
- Expands the restriction on the use of police dogs by providing that police dogs may not be used to arrest or apprehend persons (rather than prohibiting the use of unleashed police dogs for that purpose).
- Corrects the spelling of the certain chemical compounds within the definition of tear gas by changing *chloracetophenone* to *chloroacetophenone* and *O-chlorobenzylidene malonotrile* to *O-chlorobenzylidene malononitrile*.
- Removes the provisions pertaining to training and data collection on vehicular pursuits.
- Removes the amendatory provisions pertaining to a model policy on vehicular pursuits. Instead, repeals the current requirements for the CJTC to adopt a model policy, and establishes a generally applicable restriction on vehicular pursuits by providing that such pursuits are prohibited unless: There is probable cause to believe that a person in the vehicle has committed or is committing a violent offense or sex offense; the pursuit is necessary for the purpose of identifying or apprehending the person; under the circumstances, 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; the officer has received authorization to engage in the pursuit from a supervising officer; and there is supervisory control of the pursuit, and the supervisor considers relevant factors affecting public safety, such as whether there are minors present in the vehicle.
- Modifies the restriction on firing upon moving vehicles. Provides that a vehicle is not considered a deadly weapon unless extraordinary circumstances apply where it appears the operator is using

the vehicle for the purpose of causing serious physical harm to another person and the officer has no other reasonably accessible means to stop the harm (rather excluding vehicles from being considered deadly weapons generally).

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-0416.2/21 2nd draft

ATTY/TYPIST: ES:akl

BRIEF DESCRIPTION: Establishing requirements for tactics and equipment used by peace officers.

1 AN ACT Relating to establishing requirements for tactics and  
2 equipment used by peace officers; amending RCW 10.31.040; adding a  
3 new chapter to Title 10 RCW; and repealing RCW 43.101.226.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Law enforcement agency" includes any "general authority  
9 Washington law enforcement agency" and any "limited authority  
10 Washington law enforcement agency," as those terms are defined in RCW  
11 10.93.020, and any state or local agency providing or otherwise  
12 responsible for the custody, safety, and security of adults or  
13 juveniles incarcerated in correctional, jail, or detention  
14 facilities.

15 (2) "Peace officer" includes any "general authority Washington  
16 peace officer," "limited authority Washington peace officer," and  
17 "specially commissioned Washington peace officer" as those terms are  
18 defined in RCW 10.93.020, and any employee, whether part-time or  
19 full-time, of a jail, correctional, or detention facility who is  
20 responsible for the custody, safety, and security of adult or  
21 juvenile persons confined in the facility.

1        NEW SECTION.     **Sec. 2.**     (1) A peace officer may not use a  
2 chokehold or neck restraint on another person in the course of his or  
3 her duties as a peace officer.

4        (2) Any policies pertaining to the use of force adopted by law  
5 enforcement agencies must be consistent with this section.

6        (3) For the purposes of this section:

7        (a) "Chokehold" refers to any tactic in which direct pressure is  
8 applied to a person's trachea or windpipe or any other tactic  
9 intended to restrict another person's airway.

10       (b) "Neck restraint" refers to any vascular neck restraint or  
11 similar restraint, hold, or other tactic in which pressure is applied  
12 to the neck for the purpose of constricting blood flow.

13       NEW SECTION.     **Sec. 3.**     (1) A peace officer may not use a police  
14 dog for the purpose of arresting or apprehending another person.

15       (2) A law enforcement agency authorizing the use of police dogs  
16 shall adopt policies consistent with this section.

17       NEW SECTION.     **Sec. 4.**     (1) A law enforcement agency may not  
18 purchase, acquire, use, or authorize its peace officers or other  
19 employees to use tear gas for any purpose.

20       (2) For the purposes of this section, "tear gas" refers to  
21 chloroacetophenone (CN), O-chlorobenzylidene malononitrile (CS), and  
22 any similar chemical irritant dispersed in the air for the purpose of  
23 producing temporary physical discomfort or permanent injury, except  
24 "tear gas" does not include oleoresin capsicum (OC).

25       NEW SECTION.     **Sec. 5.**     (1) A law enforcement agency may not  
26 acquire or use any military equipment. Any law enforcement agency in  
27 possession of military equipment as of the effective date of this  
28 section shall return the equipment to the federal agency from which  
29 it was acquired, if applicable, or destroy the equipment by December  
30 31, 2022.

31       (2) For the purposes of this section, "military equipment" means  
32 firearms and ammunition of .50 caliber or greater, machine guns,  
33 silencers, armored vehicles, armed or armored helicopters, armed or  
34 armored drones, armed vessels, armed vehicles, armed aircraft, tanks,  
35 mine resistant ambush protected vehicles, long range acoustic hailing  
36 devices, rockets, rocket launchers, bayonets, grenades, grenade

1 launchers, missiles, directed energy systems, and electromagnetic  
2 spectrum weapons.

3 (3) This section does not prohibit a law enforcement agency from  
4 participating in a federal military equipment surplus program,  
5 provided that any equipment acquired through the program does not  
6 constitute military equipment. This may include, for example: Medical  
7 supplies; hospital and health care equipment; office supplies,  
8 furniture, and equipment; school supplies; warehousing equipment;  
9 unarmed vehicles and vessels; scientific equipment; and protective  
10 gear and weather gear.

11 NEW SECTION. **Sec. 6.** A uniformed peace officer may not  
12 intentionally cover, conceal, or obscure the number or other  
13 identifying information on his or her badge while on duty.

14 NEW SECTION. **Sec. 7.** (1) A peace officer may not engage in a  
15 vehicular pursuit, unless:

16 (a) There is probable cause to believe that a person in the  
17 vehicle has committed or is committing a violent offense or sex  
18 offense, as those terms are defined in RCW 9.94A.030;

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

21 (c) Under the circumstances, the safety risks of failing to  
22 apprehend or identify the person are considered to be greater than  
23 the safety risks associated with the vehicular pursuit;

24 (d) The officer has received authorization to engage in the  
25 pursuit from a supervising officer; and

26 (e) There is supervisory control of the pursuit, and the  
27 supervisor considers relevant factors affecting public safety, such  
28 as whether there are minors present in the vehicle.

29 (2) A peace officer may not fire a weapon upon a moving vehicle  
30 unless necessary to protect against an imminent threat of serious  
31 physical harm resulting from the operator's or a passenger's use of a  
32 deadly weapon. For the purposes of this subsection, a vehicle is not  
33 considered a deadly weapon unless extraordinary circumstances apply  
34 where it appears the operator is using the vehicle for the purpose of  
35 causing serious physical harm to another person and the officer has  
36 no other reasonably accessible means to stop the harm.

1       **Sec. 8.** RCW 10.31.040 and 2010 c 8 s 1030 are each amended to  
2 read as follows:

3       (1) To make an arrest in criminal actions, the officer may break  
4 open any outer or inner door, or windows of a dwelling house or other  
5 building, or any other (~~inclosure~~ [enclosure]) enclosure, if, after  
6 notice of his or her office and purpose, he or she be refused  
7 admittance.

8       (2) An officer may not seek and a court may not issue a search or  
9 arrest warrant granting an express exception to the requirement for  
10 the officer to provide notice of his or her office and purpose when  
11 executing the warrant.

12       NEW SECTION. **Sec. 9.** RCW 43.101.226 (Vehicular pursuits—Model  
13 policy) and 2003 c 37 s 2 are each repealed.

14       NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act  
15 constitute a new chapter in Title 10 RCW.

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