

Proposed Substitute House Bill 1363

H-1231.2/23

By Representative Goodman

Brief summary of the original bill:

- Lowers the evidentiary threshold required for engaging in a vehicular pursuit by allowing an officer to conduct the pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing any criminal offense.
- Eliminates the provisions limiting a vehicular pursuit to situations where the pursuit is necessary for the purpose of identifying or apprehending a person, the person poses an imminent threat to the safety of others, and the officer receives authorization from a supervisor and there is supervisory control.
- Modifies certain vehicular pursuit requirements related to supervisory oversight and establishes new requirements related to direct communication with specified entities, development of a plan to end the pursuit, and the pursuing officer's training and certifications.

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

- 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 one of the following crimes, rather than any criminal offense: (1) a violent offense; (2) a sex offense; (3) a Vehicular Assault offense; (4) an Assault in the first, second, third, or fourth degree offense involving domestic violence; (5) an escape; or (6) a Driving Under the Influence offense.
- Provides that an officer may not engage in a vehicular pursuit unless the person being pursued poses a serious risk of harm to others.
- Restores the provision in current law that limits a vehicular pursuit to situations where the pursuit is necessary for the purpose of identifying or apprehending the person being pursued.
- 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 pursuit and there must be supervisory oversight of the pursuit, including the supervising officer's compliance with specific requirements related to the pursuit where applicable.
- 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.
- Provides an emergency clause with an immediate effective date.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1231.2/23 2nd draft

ATTY/TYPIST: RR:le1

BRIEF DESCRIPTION: Concerning vehicular pursuits.

1 AN ACT Relating to vehicular pursuits; amending RCW 10.116.060;
2 and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

3 (c) The person poses ~~((an imminent threat to the safety of))~~ a
4 serious risk of harm to others, and the safety risks of failing to
5 apprehend or identify the person are considered to be greater than
6 the safety risks of the vehicular pursuit under the circumstances;
7 and

8 (d)(i) Except as provided in (d)(ii) of this subsection, the
9 ~~((officer has received authorization to engage in the pursuit from))~~
10 pursuing officer notifies a supervising officer ~~((and))~~ immediately
11 upon initiating the vehicular pursuit; there is supervisory
12 ~~((control))~~ oversight of the pursuit ~~((The));~~ and the pursuing
13 officer, in consultation with the supervising officer ~~((must~~
14 ~~consider))~~, considers alternatives to the vehicular pursuit ~~((The~~
15 ~~supervisor must consider))~~, the justification for the vehicular
16 pursuit, and other safety considerations, including but not limited
17 to speed, weather, traffic, road conditions, and the known presence
18 of minors in the vehicle ~~((, and the vehicular pursuit must be~~
19 ~~terminated if any of the requirements of this subsection are not~~
20 ~~met));~~

21 (ii) For those jurisdictions with fewer than 10 commissioned
22 officers, if a supervisor is not on duty at the time, the pursuing
23 officer ~~((will request))~~ requests the on-call supervisor be notified
24 of the pursuit according to the agency's procedures ~~((The)),~~ and the
25 pursuing officer ~~((must consider))~~ considers alternatives to the
26 vehicular pursuit, the justification for the vehicular pursuit, and
27 other safety considerations, including but not limited to speed,
28 weather, traffic, road conditions, and the known presence of minors
29 in the vehicle. ~~((The officer must terminate the vehicular pursuit if~~
30 ~~any of the requirements of this subsection are not met.))~~

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

32 (a) The pursuing officer and supervising officer, if applicable,
33 shall comply with any agency procedures for designating the primary
34 pursuit vehicle and determining the appropriate number of vehicles
35 permitted to participate in the vehicular pursuit ~~((and comply));~~

36 (b) The supervising officer, the pursuing officer, or dispatcher
37 shall notify other law enforcement agencies or surrounding
38 jurisdictions that may be impacted by the vehicular pursuit or called
39 upon to assist with the vehicular pursuit, and the pursuing officer
40 and supervising officer, if applicable, shall comply with any agency

1 procedures for coordinating operations with other jurisdictions,
2 including available tribal police departments when applicable;

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

7 (d) As soon as practicable after initiating a vehicular pursuit,
8 the pursuing officer, supervising officer, if applicable, or
9 responsible agency shall develop a plan to end the pursuit through
10 the use of available pursuit intervention options, such as the use of
11 the pursuit intervention technique, deployment of spike strips or
12 other tire deflation devices, or other department-authorized pursuit
13 intervention tactics; and

14 (e) The pursuing officer must have completed an emergency vehicle
15 operator's course, must have completed updated emergency vehicle
16 operator training in the previous two years, where applicable, and
17 must be certified in at least one pursuit intervention option.

18 (3) A vehicular pursuit not meeting the requirements under this
19 section must be terminated.

20 ~~((3))~~ (4) A peace officer may not fire a weapon upon a moving
21 vehicle unless necessary to protect against an imminent threat of
22 serious physical harm resulting from the operator's or a passenger's
23 use of a deadly weapon. For the purposes of this subsection, a
24 vehicle is not considered a deadly weapon unless the operator is
25 using the vehicle as a deadly weapon and no other reasonable means to
26 avoid potential serious harm are immediately available to the
27 officer.

28 ~~((4))~~ (5) For purposes of this section, "vehicular pursuit"
29 means an attempt by a uniformed peace officer in a vehicle equipped
30 with emergency lights and a siren to stop a moving vehicle where the
31 operator of the moving vehicle appears to be aware that the officer
32 is signaling the operator to stop the vehicle and the operator of the
33 moving vehicle appears to be willfully resisting or ignoring the
34 officer's attempt to stop the vehicle by increasing vehicle speed,
35 making evasive maneuvers, or operating the vehicle in a reckless
36 manner that endangers the safety of the community or the officer.

37 NEW SECTION. Sec. 2. This act is necessary for the immediate
38 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- **END** ---