

**ESHB 1054** - CONF REPT  
By Conference Committee

1 Strike everything after the enacting clause and insert the  
2 following:

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

6 (1) "Law enforcement agency" includes any "general authority  
7 Washington law enforcement agency" and any "limited authority  
8 Washington law enforcement agency," as those terms are defined in RCW  
9 10.93.020, and any state or local agency providing or otherwise  
10 responsible for the custody, safety, and security of adults or  
11 juveniles incarcerated in correctional, jail, or detention  
12 facilities. "Law enforcement agency" does not include the national  
13 guard or state guard under Title 38 RCW or any other division of the  
14 United States armed forces.

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.

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

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

27 (3) For the purposes of this section:

28 (a) "Chokehold" means the intentional application of direct  
29 pressure to a person's trachea or windpipe for the purpose of  
30 restricting another person's airway.

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

4 NEW SECTION. **Sec. 3.** (1) The criminal justice training  
5 commission shall convene a work group to develop a model policy for  
6 the training and use of canine teams.

7 (2) The criminal justice training commission must ensure that the  
8 work group is equally represented between community and law  
9 enforcement stakeholders, including the following: Families who have  
10 lost loved ones as a result of violent interactions with law  
11 enforcement; an organization advocating for civil rights; a statewide  
12 organization advocating for Black Americans; a statewide organization  
13 advocating for Latinos; a statewide organization advocating for Asian  
14 Americans, Pacific Islanders, and Native Hawaiians; a federally  
15 recognized tribe located in Washington state; a community  
16 organization from eastern Washington working on police  
17 accountability; a community organization from western Washington  
18 working on police accountability; a community organization serving  
19 persons who are unhoused; the faith-based community with advocacy on  
20 police accountability; an emergency room doctor with relevant  
21 experience; Washington association of sheriffs and police chiefs;  
22 Washington state patrol; Washington fraternal order of police;  
23 Washington council of police and sheriffs; Washington state patrol  
24 troopers association; council of metropolitan police and sheriffs;  
25 teamsters local 117; and Washington state police canine association.

26 (3) The model policy work group shall consider:

27 (a) Training curriculum, including the history of race and  
28 policing;

29 (b) Circumstances where the deployment of a canine may not be  
30 appropriate;

31 (c) Circumstances where deployment of a canine on leash may be  
32 appropriate;

33 (d) Strategies for reducing the overall rate of canine bites;

34 (e) Circumstances where a canine handler should consider the use  
35 of tactics other than deploying a canine;

36 (f) Explicitly prohibiting the use of canines for crowd control  
37 purposes;

38 (g) Canine reporting protocols;

1 (h) Circumstances where the use of voluntary canines and canine  
2 handlers may be appropriate; and

3 (i) Identifying circumstances that would warrant the  
4 decertification of canine teams.

5 (4) The criminal justice training commission shall publish the  
6 model policy on its website by January 1, 2022.

7 (5) This section expires July 1, 2022.

8 NEW SECTION. **Sec. 4.** (1) A law enforcement agency may not use  
9 or authorize its peace officers or other employees to use tear gas  
10 unless necessary to alleviate a present risk of serious harm posed by  
11 a: (a) Riot; (b) barricaded subject; or (c) hostage situation.

12 (2) Prior to using tear gas as authorized under subsection (1) of  
13 this section, the officer or employee shall:

14 (a) Exhaust alternatives to the use of tear gas that are  
15 available and appropriate under the circumstances;

16 (b) Obtain authorization to use tear gas from a supervising  
17 officer, who must determine whether the present circumstances warrant  
18 the use of tear gas and whether available and appropriate  
19 alternatives have been exhausted as provided under this section;

20 (c) Announce to the subject or subjects the intent to use tear  
21 gas; and

22 (d) Allow sufficient time and space for the subject or subjects  
23 to comply with the officer's or employee's directives.

24 (3) In the case of a riot outside of a correctional, jail, or  
25 detention facility, the officer or employee may use tear gas only  
26 after: (a) Receiving authorization from the highest elected official  
27 of the jurisdiction in which the tear gas is to be used, and (b)  
28 meeting the requirements of subsection (2) of this section.

29 (4) For the purposes of this section:

30 (a) "Barricaded subject" means an individual who is the focus of  
31 a law enforcement intervention effort, has taken a position in a  
32 physical location that does not allow immediate law enforcement  
33 access, and is refusing law enforcement orders to exit.

34 (b) "Highest elected official" means the county executive in  
35 those charter counties with an elective office of county executive,  
36 however designated, and in the case of other counties, the chair of  
37 the county legislative authority. In the case of cities and towns, it  
38 means the mayor, regardless of whether the mayor is directly elected,  
39 selected by the council or legislative body pursuant to RCW 35.18.190

1 or 35A.13.030, or selected according to a process in an established  
2 city charter. In the case of actions by the Washington state patrol,  
3 it means the governor.

4 (c) "Hostage situation" means a scenario in which a person is  
5 being held against his or her will by an armed, potentially armed, or  
6 otherwise dangerous suspect.

7 (d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene  
8 malononitrile (CS), and any similar chemical irritant dispersed in  
9 the air for the purpose of producing temporary physical discomfort or  
10 permanent injury, except "tear gas" does not include oleoresin  
11 capsicum (OC).

12 NEW SECTION. **Sec. 5.** (1) A law enforcement agency may not  
13 acquire or use any military equipment. Any law enforcement agency in  
14 possession of military equipment as of the effective date of this  
15 section shall return the equipment to the federal agency from which  
16 it was acquired, if applicable, or destroy the equipment by December  
17 31, 2022.

18 (2)(a) Each law enforcement agency shall compile an inventory of  
19 military equipment possessed by the agency, including the proposed  
20 use of the equipment, estimated number of times the equipment has  
21 been used in the prior year, and whether such use is necessary for  
22 the operation and safety of the agency or some other public safety  
23 purpose. The agency shall provide the inventory to the Washington  
24 association of sheriffs and police chiefs no later than November 1,  
25 2021.

26 (b) The Washington association of sheriffs and police chiefs  
27 shall summarize the inventory information from each law enforcement  
28 agency and provide a report to the governor and the appropriate  
29 committees of the legislature no later than December 31, 2021.

30 (3) For the purposes of this section:

31 (a) "Military equipment" means firearms and ammunition of .50  
32 caliber or greater, machine guns, armed helicopters, armed or armored  
33 drones, armed vessels, armed vehicles, armed aircraft, tanks, long  
34 range acoustic hailing devices, rockets, rocket launchers, bayonets,  
35 grenades, missiles, directed energy systems, and electromagnetic  
36 spectrum weapons.

37 (b) "Grenade" refers to any explosive grenade designed to injure  
38 or kill subjects, such as a fragmentation grenade or antitank  
39 grenade, or any incendiary grenade designed to produce intense heat

1 or fire. "Grenade" does not include other nonexplosive grenades  
2 designed to temporarily incapacitate or disorient subjects without  
3 causing permanent injury, such as a stun grenade, sting grenade,  
4 smoke grenade, tear gas grenade, or blast ball.

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

14 NEW SECTION. **Sec. 6.** All law enforcement agencies shall adopt  
15 policies and procedures to ensure that uniformed peace officers while  
16 on duty and in the performance of their official duties are  
17 reasonably identifiable. For purposes of this section, "reasonably  
18 identifiable" means that the peace officer's uniform clearly displays  
19 the officer's name or other information that members of the public  
20 can see and the agency can use to identify the peace officer.

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

23 (a) (i) There is probable cause to believe that a person in the  
24 vehicle has committed or is committing a violent offense or sex  
25 offense as defined in RCW 9.94A.030, or an escape under chapter 9A.76  
26 RCW; or

27 (ii) There is reasonable suspicion a person in the vehicle has  
28 committed or is committing a driving under the influence offense  
29 under RCW 46.61.502;

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

32 (c) The person poses an imminent threat to the safety of others  
33 and the safety risks of failing to apprehend or identify the person  
34 are considered to be greater than the safety risks of the vehicular  
35 pursuit under the circumstances; and

36 (d) (i) Except as provided in (d) (ii) of this subsection, the  
37 officer has received authorization to engage in the pursuit from a  
38 supervising officer and there is supervisory control of the pursuit.

1 The officer in consultation with the supervising officer must  
2 consider alternatives to the vehicular pursuit. The supervisor must  
3 consider the justification for the vehicular pursuit and other safety  
4 considerations, including but not limited to speed, weather, traffic,  
5 road conditions, and the known presence of minors in the vehicle, and  
6 the vehicular pursuit must be terminated if any of the requirements  
7 of this subsection are not met;

8 (ii) For those jurisdictions with fewer than 10 commissioned  
9 officers, if a supervisor is not on duty at the time, the officer  
10 will request the on-call supervisor be notified of the pursuit  
11 according to the agency's procedures. The officer must consider  
12 alternatives to the vehicular pursuit, the justification for the  
13 vehicular pursuit, and other safety considerations, including but not  
14 limited to speed, weather, traffic, road conditions, and the known  
15 presence of minors in the vehicle. The officer must terminate the  
16 vehicular pursuit if any of the requirements of this subsection are  
17 not met.

18 (2) A pursuing officer shall comply with any agency procedures  
19 for designating the primary pursuit vehicle and determining the  
20 appropriate number of vehicles permitted to participate in the  
21 vehicular pursuit and comply with any agency procedures for  
22 coordinating operations with other jurisdictions, including available  
23 tribal police departments when applicable.

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

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

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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16       On page 1, line 2 of the title, after "officers;" strike the  
17 remainder of the title and insert "amending RCW 10.31.040; adding a  
18 new chapter to Title 10 RCW; repealing RCW 43.101.226; and providing  
19 an expiration date."

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