

2023 Regular Session

HOUSE BILL NO. 543

BY REPRESENTATIVE JORDAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIABILITY/CIVIL: Provides relative to vehicle pursuits by peace officers

1 AN ACT

2 To enact R.S. 9:2800.30, relative to vehicle pursuits by peace officers; to provide relative
3 to emergency vehicle operations; to provide relative to the initiation, continuation,
4 and termination of a pursuit; to provide relative to intervention techniques; to
5 provide for strict liability of certain law enforcement agencies, offices, or
6 departments in certain circumstances; to provide for exemplary damages; to provide
7 for attorney fees and court costs; to provide for definitions; to provide for
8 retroactivity; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:2800.30 is hereby enacted to read as follows:

11 §2800.30. Damage caused by vehicle pursuits by law enforcement

12 A.(1) In addition to the requirements set forth in R.S. 32:24, peace officers
13 operating an authorized emergency vehicle shall engage emergency lights, and
14 should engage the siren as appropriate, when participating in a pursuit.

15 (2) Peace officers shall use their discretion when initiating or assisting in a
16 pursuit. The primary concern of any peace officer when initiating or assisting in any
17 vehicle pursuit is the risk to public safety. Peace officers and supervisors shall
18 continually evaluate the situation and shall terminate the pursuit when the totality of
19 the risks to the safety of the public clearly outweighs the need for immediate
20 apprehension.

1 B.(1) A pursuit shall not begin, nor shall it be continued, when the need for
2 immediate apprehension is very low and the totality of risk to public safety is very
3 high.

4 (2) Each peace officer shall consider the following prior to initiating,
5 becoming involved in, or continuing in a pursuit:

6 (a) The violation the suspect is known to have committed, is wanted for or
7 suspected of.

8 (b) Imminent danger to the public based on the totality of the circumstances.

9 (c) Time of day.

10 (d) Potential danger if the offender is not apprehended immediately.

11 (e) Positive identification of the driver.

12 (f) Other considerations, including but not limited to the following:

13 (i) Vehicle and pedestrian traffic conditions.

14 (ii) Road conditions.

15 (iii) Visibility.

16 (iv) Terrain.

17 (v) Speed and capability of the pursued vehicle.

18 (vi) Limitations of emergency equipment and vehicles.

19 (3) All the considerations pursuant to this Paragraph shall be continually
20 evaluated throughout the duration of the pursuit.

21 (4) If a pursuit is terminated or concludes with the apprehension of the
22 vehicle or suspect, the procedures contained in Subsection G of this Section shall be
23 adhered to.

24 (5) If a marked authorized emergency vehicle joins the pursuit, peace
25 officers operating motorcycles or unmarked vehicles shall relinquish the lead in a
26 pursuit, when safe and feasible to do so, to the marked authorized emergency
27 vehicle.

28 C.(1) Any peace officer driving parallel to a pursuit is considered part of the
29 pursuit, regardless of the proximity of the peace officer to the pursuit.

1 (2) Peace officers deploying tire deflation devices, setting up roadblocks, or
2 applying lawful intervention techniques shall report these to the supervising peace
3 officer for documentation.

4 D.(1) When a vehicle pursuit has been initiated, the appropriate dispatch
5 center shall be notified by radio.

6 (2) The dispatch center initially receiving notification and information
7 related to the pursuit shall receive notification of the following:

8 (a) Obtain, when safe and feasible to do so, the description of the suspect
9 vehicle, suspect, if available, number of visible occupants, location, direction of
10 travel, and reason for the pursuit.

11 (b) Continue to be notified of the description and current location of the
12 pursued vehicle, route of travel, if known, and any additional information as needed.

13 (c) Advise other peace officers to hold all non-emergency radio
14 transmissions.

15 (d) Use discretion and brevity in all radio transmissions.

16 (e) Upon termination of the pursuit and any subsequent related emergency
17 including vehicle crashes and foot pursuits, initiate a dispatch for resumption of
18 routine radio traffic.

19 E. Peace officers shall not engage in any of the following:

20 (1) Discharge a firearm at or from a vehicle except in situations where
21 deadly force is allowed by law.

22 (2) Use of police vehicles as a weapon except in situations where deadly
23 force is allowed by law.

24 F.(1) Peace officers shall set up roadblocks as follows:

25 (a) Emergency lighting shall be in operation on authorized emergency
26 vehicles used as a stationary roadblock.

27 (b) Authorized emergency vehicles used as stationary roadblocks shall not
28 be occupied.

1 (c) Privately owned vehicles shall not be commandeered to be used as a
2 roadblock.

3 (d) Roadblocks shall be set up where it will afford clear visibility to traffic
4 in all directions.

5 (e) Remove all vehicles and people not associated with the roadblock from
6 the area.

7 (f) Roadblocks shall be positioned in such a location and manner that the
8 suspect can see the roadblock and have sufficient time and distance to come to a stop
9 prior to the roadblock.

10 (g) Rolling roadblocks may only be used in circumstances where it is
11 necessary to protect a third party. Non-police vehicles shall not be used to conduct
12 a rolling roadblock.

13 (2)(a) Peace officers preparing to use tire deflation devices shall do all of the
14 following:

15 (i) Seek a proper place of cover from which to deploy the tire deflation
16 devices.

17 (ii) Deploy the tire deflation devices as per the manufacturer's specifications
18 across the path of the target vehicle.

19 (iii) Take into consideration the totality of the circumstances as provided in
20 Subsection B of this Section prior to deploying the tire deflation devices.

21 (iv) After deployment, the deploying peace officer shall be responsible for
22 gathering and securing the deployed device out of the roadway.

23 (b) Tire deflation devices shall not be used as a hand weapon.

24 (3)(a) A peace officer may employ the precision immobilization technique
25 maneuver against a pursued vehicle to terminate a pursuit or prevent a pursued
26 vehicle from continued operation under the following conditions:

27 (i) The peace officer has been trained and approved to conduct the precision
28 immobilization technique maneuver.

1 (ii) In the judgment of the peace officer, the fleeing vehicle needs to be
2 stopped immediately to safeguard life or preserve public safety.

3 (iii) The peace officer takes into account the safety of the public, the
4 occupants of the fleeing vehicle and the peace officer involved.

5 (iv) The peace officer takes into account the totality of the circumstances as
6 set forth in Subsection B of this Section.

7 (v) The precision immobilization technique maneuver is used in accordance
8 with agency, department, or peace officer training guidelines.

9 (b) A sufficient amount back-up peace officers shall be available at the time
10 the precision immobilization technique maneuver is employed to prevent the vehicle
11 in pursuit from escaping after initially coming to rest.

12 G.(1)(a) The decision to terminate a pursuit can be made by either the peace
13 officer or any supervisor personnel of the primary pursuing agency, department or
14 office, including a duty peace officer. Additionally, each agency, department or
15 office with involved officers may make an independent determination to end the
16 participation of the peace officers in the pursuit.

17 (b) The pursuit shall be terminated when the totality of the risk to the safety
18 of the public clearly outweighs the need for immediate apprehension.

19 (c) If the pursuit is terminated through the implementation of a lawful
20 intervention technique, the peace officer shall immediately notify the primary
21 dispatch center and the supervisor personnel of the primary pursuing agency,
22 department, or office.

23 (d) If the pursuit involves an injury or death, the peace officer shall
24 immediately notify the primary dispatch center and the supervisor or command
25 personnel of the primary pursuing agency, department or office.

26 (2) Peace officers shall immediately contact the dispatch center and advise
27 on all of the following:

28 (a) That emergency equipment, including lights and siren, has been
29 deactivated.

1 (b) The location where the pursuit was terminated.

2 (c) The last known location, direction of travel of the suspect.

3 (d) The actions taken by the peace officer to terminate the pursuit.

4 H.(1) Pursuits that cross state lines shall only be made in accordance with
5 the policies of the pursuing agency and the laws of the state that is being entered.

6 (2) Upon apprehension, the pursued suspects shall remain in the custody of
7 the peace officers of the state being entered until extradition is granted by that state.

8 I.(1) If a peace officer or employee fails to comply with the provisions of this
9 Section, a law enforcement agency, department, or office shall be held strictly liable
10 for damages caused by its peace officers or employees while in pursuit of a vehicle,
11 and such pursuit results in serious bodily injury or death.

12 (2) In addition to general and special damages, a prevailing plaintiff may be
13 awarded court costs, reasonable attorney fees, and exemplary damages.

14 J. For the purposes of this Section:

15 (1) "Authorized emergency vehicle" shall have the same meaning as
16 provided in R.S. 32:1.

17 (2) "Lawful intervention technique" means a method by which peace
18 officers, including pursuing authorized emergency vehicles, cause, or attempt to
19 cause, a fleeing motor vehicle to stop. The term includes a precision immobilization
20 technique maneuver.

21 (3) "Parallel" means when peace officers, not directly involved in a pursuit
22 or a failure to yield situation, are traveling in the same direction or on an intercept
23 course with the intent to be in a position to assist. Peace officers paralleling a pursuit
24 are considered part of the pursuit, regardless of their proximity to the pursuit.
25 Paralleling must be done with due regard for the safety of all persons.

26 (4) "Peace officer" shall have the same meaning as provided by R.S.
27 40:2402.

28 (5) "Precision immobilization technique" means a technique used by a
29 trained peace officer operating an authorized emergency vehicle to make contact at

1 controlled speeds with the violator vehicle being pursued in order to push the rear of
2 the violator vehicle to the point it spins causing the violator vehicle to stop.

3 (6) "Pursuit" means pursuing or following a person who knowingly or
4 intentionally flees from a peace officer after a peace officer has been identified, by
5 visible or audible means and ordered the person to stop with intent to detain,
6 apprehend or arrest. This also includes any peace officer who is trailing the pursuit
7 or attempting to enter the pursuit regardless of proximity to it.

8 (7) "Termination of a pursuit" means when an involved peace officer either
9 voluntarily stops pursuing a vehicle, or is ordered to stop pursuing a vehicle, and
10 complies with the procedures of termination in this uniform statewide policy.

11 (8) "Vehicle" means any motor vehicle, aircraft, watercraft, vessel, or other
12 means of conveyance.

13 Section 2. The provisions of this Act shall be given prospective and retroactive
14 application to all pending actions at the time of passage of this Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 543 Original

2023 Regular Session

Jordan

Abstract: Provides for procedures when engaging in vehicle pursuit of a suspect and provides for strict liability for an agency, department, or office in certain circumstances.

Present law (R.S. 32:24) provides for requirements of an authorized emergency vehicle when responding to an emergency call or when in pursuit of an actual or suspected violator of the law.

Present law provides that the driver or rider of an authorized vehicle shall have a duty to drive or ride with due regard for the safety of all persons.

Proposed law retains present law but sets forth requirements for peace officers when initiating or assisting in a pursuit.

Proposed law provides that the peace officer's primary concern is the risk to public safety and to continually evaluate the situation and terminate the pursuit when the totality of risks to the public safety clearly outweighs the need for immediate apprehension.

Proposed law provides that prior to initiating, becoming involved in, or continuing a pursuit, the officer shall consider the following:

- (1) Violation the suspect is known for, wanted for, or suspected of.
- (2) Imminent danger to the public based on the totality of the circumstances.
- (3) Time of day.
- (4) Potential danger if the offender is not apprehended immediately.
- (5) Positive identification of the driver.
- (6) Other considerations including surroundings and limitations of equipment and vehicles.

Proposed law provides that the considerations provided in proposed law shall be continually evaluated throughout the duration of the pursuit.

Proposed law provides for procedures when a peace officer deploys lawful intervention techniques such as tire deflation devices and roadblocks. Peace officers shall report deployment to the supervising officer for documentation.

Proposed law provides that the dispatch center shall be notified when a pursuit is initiated.

Proposed law provides that the dispatch center shall receive notifications of the following:

- (1) Description of the suspect vehicle, suspect, number of visible occupants, location, direction of travel, and reason for the pursuit.
- (2) Continual notifications of the description and current location of pursued vehicle and route of travel.
- (3) Advise other units to hold all non-emergency radio transmissions.
- (4) Use discretion and brevity in all radio transmissions.
- (5) Upon termination of a pursuit, initiate a dispatch for resumption of routine radio traffic.

Proposed law provides that peace officers shall not discharge a firearm at or from a vehicle or use police vehicles except in situations where deadly force is allowed by law.

Proposed law provides for procedures where peace officers shall set up roadblocks.

Proposed law provides for procedures when peace officers use tire deflation devices.

Proposed law provides for procedures when peace officers may employ a precision immobilization technique maneuver.

Proposed law provides for the termination of pursuits either by the peace officer or any supervisor.

Proposed law provides that pursuits that cross state lines shall only be made in accordance with policies of the pursuing agency and the laws of the state that is being entered.

Proposed law provides that if a peace officer or employee fails to comply with proposed law the law enforcement agency, department, or office shall be held strictly liable for damages caused by its peace officers or employees while in pursuit of a vehicle and such pursuit results in serious bodily injury or death.

Proposed law provides that in addition to special damages, the plaintiff may be awarded court costs, reasonable attorney fees, and exemplary damages.

Proposed law defines "authorized emergency vehicle", "lawful intervention technique", "parallel", "peace officer", "precision immobilization technique", "pursuit", "termination of a pursuit", and "vehicle".

Proposed law provides that the provisions of proposed law shall be prospective and retroactive to pending actions at the time of the passage of proposed law.

(Adds R.S. 9:2800.30)