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**SUBSTITUTE SENATE BILL 5259**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Nobles, Carlyle, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Pedersen, Randall, Robinson, Saldaña, Stanford, Wellman, and Wilson, C.; by request of Attorney General)

1 AN ACT Relating to requiring reporting, collecting, and  
2 publishing information regarding law enforcement interactions with  
3 the communities they serve; adding a new chapter to Title 10 RCW; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that law enforcement  
7 transparency and accountability are vital in maintaining public  
8 trust. Data collection is one essential tool to allow the public, law  
9 enforcement, and policymakers to analyze the effectiveness of  
10 existing police practices, determine which policies and training work  
11 and do not work, and avoid unintended consequences by supporting  
12 policy decisions with clear and relevant data.

13 The legislature finds that creating a statewide data collection  
14 program that creates a publicly accessible database to track metrics  
15 will help to promote openness, transparency, and accountability,  
16 build stronger police-community relations, improve trust and  
17 confidence in policing services, evaluate specific areas of concern  
18 such as biased policing and excessive force, and ultimately improve  
19 the quality of policing services.

1        NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires  
3 otherwise.

4        (1) "Great bodily harm" has the same meaning as in RCW 9A.04.110.

5        (2) "Law enforcement agency" includes any "general authority  
6 Washington law enforcement agency" and "limited authority Washington  
7 law enforcement agency" as those terms are defined in RCW 10.93.020.

8        (3) "Substantial bodily harm" has the same meaning as in RCW  
9 9A.04.110.

10       (4) "University" means a four-year institution of higher  
11 education.

12       NEW SECTION.    **Sec. 3.**    (1) Subject to the availability of amounts  
13 appropriated for these purposes:

14       (a) The attorney general's office shall establish an advisory  
15 group to design a program to examine any additional data needs or  
16 gaps necessary to implement or carry out the university's use of  
17 force data program. The advisory group shall consult with private or  
18 public entities where there are additional data elements that would  
19 be beneficial to furthering the intent of this act. Those additional  
20 data elements, as determined by the advisory group, shall also be  
21 provided as recommendations to the legislature. Recommendations  
22 resulting from this advisory group shall be provided to the  
23 legislature by December 1, 2021. This advisory group shall include:

24       (i) At least three representatives from local nongovernmental  
25 organizations or advocacy groups that are focused on the interactions  
26 between law enforcement and the community;

27       (ii) At least three representatives from law enforcement agencies  
28 or organizations representing the interests of law enforcement by  
29 interacting and utilizing this data; and

30       (iii) At least one representative from the private sector, with  
31 experience in data collection programs, preferably law enforcement  
32 data collection.

33       (b) Any staff or researchers supporting the program or its  
34 contractors must have appropriate expertise and experience in data  
35 collection and analysis, including training in racial equity issues.

36       (2) The advisory group shall meet at least on a bi-monthly basis,  
37 or until the program is finalized and approved.

1 (3) The advisory group may request and solicit information on  
2 ideas for the design, development, and management of the data  
3 collection program from qualified universities and experts.

4 (4) By January 1, 2022, the advisory group shall submit to the  
5 attorney general their recommendations for the statewide  
6 implementation of a data collection program, reporting, and  
7 publication program, which must include the following elements:

8 (a) Prioritize the use of force data collection elements and  
9 obligations in section 4 of this act;

10 (b) Define the specific data to be collected from law enforcement  
11 agencies on interactions between officers and the public, this  
12 includes additional incidents and interactions and additional details  
13 of those incidents and interactions, such as traffic stops, calls for  
14 services, arrests, vehicle pursuits, and disciplinary actions as  
15 identified by the advisory group;

16 (c) Establish procedures and deadlines for law enforcement  
17 agencies to collect and report data to the university, which should  
18 incorporate methodologies based in best practices or those tested and  
19 validated in other jurisdictions, where possible;

20 (d) Establish procedures for the public to report relevant  
21 information to the university directly, or its successor, including  
22 correcting misreported and otherwise incorrect data;

23 (e) Establish reporting, analyzing, and publishing practices and  
24 procedures for the university and its contractors, which must  
25 include, at a minimum:

26 (i) Public access to data and analysis in a searchable format  
27 published on a website by the university;

28 (ii) Access to raw and/or refined data for academic research;

29 (iii) Interactive data visualization tools designed for law  
30 enforcement agencies and other entities to use the data for research,  
31 professional development, training, and management;

32 (iv) The ability to extract data from incident reports, or other  
33 electronic means, and officer narratives in order to standardize data  
34 across multiple agencies;

35 (v) Analysis of data, using methodologies based in best practices  
36 or those tested and validated in other jurisdictions, if possible,  
37 including, but not limited to, analysis of the data using legal  
38 algorithms based on available and applicable legal standards;

39 (vi) Analytical dashboards with individual officer details for  
40 use by law enforcement agencies as a risk management tool;

1 (vii) Agency level comparative dashboards for all law enforcement  
2 agencies in the state;

3 (viii) Historical data, if available, in order to identify long-  
4 term trends and patterns; and

5 (ix) Semiannual reports, summarizing the data collected and any  
6 related analysis, published on the website and submitted to the  
7 legislature and governor by March 30th and September 30th of each  
8 year; and

9 (f) Consider phased implementation, if necessary, for collecting  
10 and reporting data on different types of interactions and incidents  
11 based on current practices and currently available data as compared  
12 to additional practices that must be put into place by individual  
13 agencies across the state, provided that any phased implementation  
14 prioritizes use of force data as provided in section 4 of this act.

15 (4) (a) The office of the attorney general shall review the policy  
16 submitted pursuant to subsection (3) of this section, and shall  
17 approve or reject the policy, either in part or in full, based on  
18 recommendations of the advisory group and the funding available and  
19 necessary to achieve those recommendations. In reviewing the policy,  
20 the office of the attorney general shall consider:

21 (i) The interests of the public in accessing information in a  
22 transparent and expedient manner. In considering the interests of the  
23 public, the advisory board shall accept and consider comments from  
24 impacted family members or their designees;

25 (ii) The institutional operations and demands of law enforcement  
26 agencies and the university. In considering the institutional  
27 operations and demands of law enforcement, the attorney general shall  
28 accept and consider comment from the criminal justice training center  
29 and local law enforcement agencies.

30 (b) If the policy is rejected, in part or in full, the advisory  
31 group shall submit a revised policy in accordance with any deadlines  
32 established by the office of the attorney general. Regardless of any  
33 revisions to the policy or any phased implementation approved by the  
34 office of the attorney general, data collection, reporting, and  
35 publication shall commence by July 1, 2022, on the elements provided  
36 under section 4 of this act. The office of the attorney general may  
37 approve a policy with an earlier implementation deadline, if  
38 recommended by the advisory group.

39 (5) Following the approval of the policy under subsection (4) of  
40 this section, the university, or its successor, may submit revisions

1 to the policy to modify the types of data collected and reported in  
2 section 4 of this act, including requiring reporting of additional  
3 data from law enforcement agencies. The office of the attorney  
4 general shall review and approve or reject any requested revisions in  
5 accordance with this section.

6 (6) Following the approval of the program, the advisory board  
7 shall conduct a competitive bidding process to select a university to  
8 design, develop, and manage the data collection program according to  
9 the approved specifications. The selected university will be  
10 responsible for meeting all the requirements in section 4 of this  
11 act.

12 NEW SECTION. **Sec. 4.** (1) The university shall establish and  
13 maintain a program, in consultation with the advisory group to  
14 collect, report, and publish information on law enforcement's use of  
15 force. The program must be operated in accordance with the policy  
16 approved by the office of the attorney general. All law enforcement  
17 agencies shall submit the data by way of incident reports, or other  
18 electronic means, in a manner specified by the university, to the  
19 university as required under subsection (2) of this section when:

20 (a) A fatality occurs in connection with the use of force by a  
21 law enforcement officer;

22 (b) Great bodily harm occurs in connection with the use of force  
23 by a law enforcement officer;

24 (c) Substantial bodily harm occurs in connection with the use of  
25 force by a law enforcement officer; or

26 (d) A law enforcement officer:

27 (i) Discharges a firearm at or in the direction of a person;

28 (ii) Points a firearm at a person;

29 (iii) Uses a chokehold or vascular neck restraint;

30 (iv) Uses an electronic control weapon including, but not limited  
31 to, a taser, against a person;

32 (v) Uses oleoresin capsicum spray against a person;

33 (vi) Discharges a less-lethal shotgun or other impact munitions  
34 at or in the direction of a person;

35 (vii) Strikes a person using an impact weapon or instrument  
36 including, but not limited to, a club, baton, or flashlight;

37 (viii) Uses any part of their body to physically strike a person  
38 including, but not limited to, punching, kicking, slapping, or using  
39 closed fists or feet;

1 (ix) Uses a vehicle to intentionally strike a person or vehicle;  
2 or  
3 (x) Either deploys a canine by releasing it from the physical  
4 control of the law enforcement officer, if it bites a person, or  
5 both.

6 (2) When reporting an incident as required under subsection (1)  
7 of this section, the agency employing the officer that used force  
8 shall provide the following:

9 (a) The date and time of the incident;  
10 (b) The location of the incident;  
11 (c) The agency or agencies employing the law enforcement  
12 officers;  
13 (d) The type of force used by the law enforcement officer;  
14 (e) The type of injury to the person against whom force was used,  
15 if any;  
16 (f) The type of injury to the law enforcement officer, if any;  
17 (g) Whether the person against whom force was used was armed or  
18 unarmed;  
19 (h) Whether the person against whom force was used was believed  
20 to be armed;  
21 (i) The type of weapon the person against whom force was used was  
22 armed with, if any;  
23 (j) The age, gender, race, and ethnicity of the person against  
24 whom force was used, if known;  
25 (k) The tribal affiliation of the person against whom force was  
26 used, if applicable;  
27 (l) Whether the person against whom force was used exhibited any  
28 signs associated with a potential mental health condition or use of a  
29 controlled substance or alcohol based on the observation of the law  
30 enforcement officer;  
31 (m) The age, gender, race, and ethnicity of the law enforcement  
32 officer;  
33 (n) The law enforcement officer's years of service;  
34 (o) The reason for the initial contact between the person against  
35 whom force was used and the law enforcement officer;  
36 (p) Whether any minors were present at the scene of the incident;  
37 (q) The entity conducting the independent investigation of the  
38 incident, if applicable;  
39 (r) Any other information required by the policy under section 3  
40 of this act;

1 (s) Whether dashboard or body worn camera footage was recorded  
2 for an incident;

3 (t) Number of officers who were present when force was used;

4 (u) Number of suspects who were present when force was used.

5 (3) All law enforcement agencies shall develop a reporting plan  
6 with the university for any additional data required by the policy  
7 under this section, including additional types of interactions and  
8 incidents where force is contemplated but not expressly outlined as  
9 listed in subsection (2) of this section, and additional data  
10 relevant to such interactions and incidents.

11 (4) In carrying out the requirements of this section, the  
12 university may contract with public and private institutions of  
13 higher education, other organizations, and businesses with  
14 significant expertise and experience in collecting, tracking, and  
15 reporting data on law enforcement's interactions with the public in  
16 the state.

17 (5) All law enforcement agencies shall report to the university  
18 any additional data required by the policy under section 3 of this  
19 act, including additional types of interactions and incidents, and  
20 additional data relevant to such interactions and incidents.

21 (6) All law enforcement agencies shall submit the data required  
22 under this section to the university in the format and by the  
23 deadlines established by the policy under section 3 of this act,  
24 provided that agencies begin submitting data required under  
25 subsections (1) and (2) of this section no later than July 1, 2022,  
26 and provided that such submissions must occur on at least a quarterly  
27 basis.

28 NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act  
29 constitute a new chapter in Title 10 RCW.

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