

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310**

Chapter 324, Laws of 2021

67th Legislature  
2021 Regular Session

LAW ENFORCEMENT AND CORRECTIONAL OFFICERS—PERMISSIBLE USES OF FORCE

EFFECTIVE DATE: July 25, 2021

Passed by the House April 23, 2021  
Yeas 56 Nays 41

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 23, 2021  
Yeas 26 Nays 23

DENNY HECK

**President of the Senate**

Approved May 18, 2021 11:49 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 18, 2021

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2021 Regular Session

**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House Appropriations (originally sponsored by Representatives J. Johnson, Lovick, Ryu, Simmons, Berry, Fitzgibbon, Hackney, Wylie, Sells, Wicks, Cody, Callan, Gregerson, Santos, Senn, Ortiz-Self, Chopp, Davis, Valdez, Dolan, Bateman, Ormsby, Bergquist, Morgan, Ramel, Ramos, Lekanoff, Frame, Harris-Talley, Pollet, Macri, and Peterson)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to permissible uses of force by law enforcement  
2 and correctional officers; amending RCW 43.101.450; adding a new  
3 section to chapter 43.101 RCW; adding a new chapter to Title 10 RCW;  
4 creating new sections; and repealing RCW 10.31.050.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that additional  
7 clarity is necessary following the passage of Initiative Measure No.  
8 940 (chapter 1, Laws of 2019) and Substitute House Bill No. 1064  
9 (chapter 4, Laws of 2019). The legislature intends to address  
10 excessive force and discriminatory policing by establishing a  
11 requirement for law enforcement and community corrections officers to  
12 act with reasonable care when carrying out their duties, including  
13 using de-escalation tactics and alternatives to deadly force.  
14 Further, the legislature intends to address public safety concerns by  
15 limiting the use of deadly force to very narrow circumstances where  
16 there is an imminent threat of serious physical injury or death. It  
17 is the intent of the legislature that when practicable, peace  
18 officers will use the least amount of physical force necessary to  
19 overcome actual resistance under the circumstances.

20 It is the fundamental duty of law enforcement to preserve and  
21 protect all human life.

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

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

8        (2) "Less lethal alternatives" include, but are not limited to,  
9 verbal warnings, de-escalation tactics, conducted energy weapons,  
10 devices that deploy oleoresin capsicum, batons, and beanbag rounds.

11        (3) "Peace officer" includes any "general authority Washington  
12 peace officer," "limited authority Washington peace officer," and  
13 "specially commissioned Washington peace officer" as those terms are  
14 defined in RCW 10.93.020; however, "peace officer" does not include  
15 any corrections officer or other employee of a jail, correctional, or  
16 detention facility, but does include any community corrections  
17 officer.

18        NEW SECTION.    **Sec. 3.**    (1)(a) Except as otherwise provided under  
19 this section, a peace officer may use physical force against a person  
20 when necessary to: Protect against criminal conduct where there is  
21 probable cause to make an arrest; effect an arrest; prevent an escape  
22 as defined under chapter 9A.76 RCW; or protect against an imminent  
23 threat of bodily injury to the peace officer, another person, or the  
24 person against whom force is being used.

25        (b) A peace officer may use deadly force against another person  
26 only when necessary to protect against an imminent threat of serious  
27 physical injury or death to the officer or another person. For  
28 purposes of this subsection (1)(b):

29        (i) "Imminent threat of serious physical injury or death" means  
30 that, based on the totality of the circumstances, it is objectively  
31 reasonable to believe that a person has the present and apparent  
32 ability, opportunity, and intent to immediately cause death or  
33 serious bodily injury to the peace officer or another person.

34        (ii) "Necessary" means that, under the totality of the  
35 circumstances, a reasonably effective alternative to the use of  
36 deadly force does not exist, and that the amount of force used was a  
37 reasonable and proportional response to the threat posed to the  
38 officer and others.

1 (iii) "Totality of the circumstances" means all facts known to  
2 the peace officer leading up to and at the time of the use of force,  
3 and includes the actions of the person against whom the peace officer  
4 uses such force, and the actions of the peace officer.

5 (2) A peace officer shall use reasonable care when determining  
6 whether to use physical force and when using any physical force  
7 against another person. To that end, a peace officer shall:

8 (a) When possible, exhaust available and appropriate de-  
9 escalation tactics prior to using any physical force, such as:  
10 Creating physical distance by employing tactical repositioning and  
11 repositioning as often as necessary to maintain the benefit of time,  
12 distance, and cover; when there are multiple officers, designating  
13 one officer to communicate in order to avoid competing commands;  
14 calling for additional resources such as a crisis intervention team  
15 or mental health professional when possible; calling for back-up  
16 officers when encountering resistance; taking as much time as  
17 necessary, without using physical force or weapons; and leaving the  
18 area if there is no threat of imminent harm and no crime has been  
19 committed, is being committed, or is about to be committed;

20 (b) When using physical force, use the least amount of physical  
21 force necessary to overcome resistance under the circumstances. This  
22 includes a consideration of the characteristics and conditions of a  
23 person for the purposes of determining whether to use force against  
24 that person and, if force is necessary, determining the appropriate  
25 and least amount of force possible to effect a lawful purpose. Such  
26 characteristics and conditions may include, for example, whether the  
27 person: Is visibly pregnant, or states that they are pregnant; is  
28 known to be a minor, objectively appears to be a minor, or states  
29 that they are a minor; is known to be a vulnerable adult, or  
30 objectively appears to be a vulnerable adult as defined in RCW  
31 74.34.020; displays signs of mental, behavioral, or physical  
32 impairments or disabilities; is experiencing perceptual or cognitive  
33 impairments typically related to the use of alcohol, narcotics,  
34 hallucinogens, or other drugs; is suicidal; has limited English  
35 proficiency; or is in the presence of children;

36 (c) Terminate the use of physical force as soon as the necessity  
37 for such force ends;

38 (d) When possible, use available and appropriate less lethal  
39 alternatives before using deadly force; and

1 (e) Make less lethal alternatives issued to the officer  
2 reasonably available for their use.

3 (3) A peace officer may not use any force tactics prohibited by  
4 applicable departmental policy, this chapter, or otherwise by law,  
5 except to protect his or her life or the life of another person from  
6 an imminent threat.

7 (4) Nothing in this section prevents a law enforcement agency or  
8 political subdivision of this state from adopting policies or  
9 standards with additional requirements for de-escalation and greater  
10 restrictions on the use of physical and deadly force than provided in  
11 this section.

12 NEW SECTION. **Sec. 4.** (1) By July 1, 2022, the attorney general  
13 shall develop and publish model policies on law enforcement's use of  
14 force and de-escalation tactics consistent with section 3 of this  
15 act.

16 (2) By December 1, 2022, all law enforcement agencies shall:  
17 Adopt policies consistent with the model policies and submit copies  
18 of the applicable policies to the attorney general; or, if the agency  
19 did not adopt policies consistent with the model policies, provide  
20 notice to the attorney general stating the reasons for any departures  
21 from the model policies and an explanation of how the agency's  
22 policies are consistent with section 3 of this act, including a copy  
23 of the agency's relevant policies. After December 1, 2022, whenever a  
24 law enforcement agency modifies or repeals any policies pertaining to  
25 the use of force or de-escalation tactics, the agency shall submit  
26 notice of such action with copies of any relevant policies to the  
27 attorney general within 60 days.

28 (3) By December 31st of each year, the attorney general shall  
29 publish on its website a report on the requirements of this section,  
30 including copies of the model policies, information as to the status  
31 of individual agencies' policies, and copies of any agency policies  
32 departing from the model policies.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101  
34 RCW to read as follows:

35 The basic training provided to criminal justice personnel by the  
36 commission must be consistent with the standards in section 3 of this  
37 act and the model policies established by the attorney general under  
38 section 4 of this act.

1       **Sec. 6.** RCW 43.101.450 and 2019 c 1 s 3 (Initiative Measure No.  
2 940) are each amended to read as follows:

3       (1) Beginning one year after December 6, 2018, all law  
4 enforcement officers in the state of Washington must receive violence  
5 de-escalation training. Law enforcement officers beginning employment  
6 after December 6, 2018, must successfully complete such training  
7 within the first (~~fifteen~~)15 months of employment. The commission  
8 shall set the date by which other law enforcement officers must  
9 successfully complete such training.

10       (2) All law enforcement officers shall periodically receive  
11 continuing violence de-escalation training to practice their skills,  
12 update their knowledge and training, and learn about new legal  
13 requirements and violence de-escalation strategies.

14       (3) The commission shall set training requirements through the  
15 procedures in RCW 43.101.455.

16       (4) Violence de-escalation training provided under this section  
17 must be consistent with section 3 of this act and the model policies  
18 established by the attorney general under section 4 of this act.

19       (5) The commission shall submit a report to the legislature and  
20 the governor by January 1st and July 1st of each year on the  
21 implementation of and compliance with subsections (1) and (2) of this  
22 section. The report must include data on compliance by agencies and  
23 officers. The report may also include recommendations for any changes  
24 to laws and policies necessary to improve compliance with subsections  
25 (1) and (2) of this section.

26       NEW SECTION.   **Sec. 7.** RCW 10.31.050 (Officer may use force) and  
27 2010 c 8 s 1031, Code 1881 s 1031, 1873 p 229 s 211, & 1854 p 114 s  
28 75 are each repealed.

29       NEW SECTION.   **Sec. 8.** Sections 2 through 4 of this act  
30 constitute a new chapter in Title 10 RCW.

31       NEW SECTION.   **Sec. 9.** If specific funding for the purposes of  
32 this act, referencing this act by bill or chapter number, is not  
33 provided by June 30, 2021, in the omnibus appropriations act, this  
34 act is null and void.

Passed by the House April 23, 2021.  
Passed by the Senate April 23, 2021.  
Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

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