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**SFA****BILL ANALYSIS**

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House Bill 4039 (Substitute H-5 as passed by the House)  
Sponsor: Representative Kirk Profit  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 10-21-97

### **CONTENT**

The bill would create the “Law Enforcement Pursuit and Response Policy Act” to do all of the following:

- Establish a “Law Enforcement Vehicle Pursuit and Response Policy Advisory Panel” within the Law Enforcement Council created by the Michigan Law Enforcement Officers Training Council Act.
- Require the Council to develop, with the advice of the advisory panel, a model law enforcement vehicle pursuit and response policy to govern emergency operation of law enforcement vehicles.
- Authorize a governmental agency to adopt all or a portion of the model policy or to develop and adopt its own policy.

The bill includes an October 1, 1997, effective date and would be repealed five years after its effective date.

#### Advisory Panel

The proposed advisory panel would consist of the members of the Law Enforcement Council, and at least one member and one alternate member from each of the following groups:

- The Michigan Association of Counties.
- The Prosecuting Attorneys Association of Michigan.
- The Michigan Municipal League.
- The Michigan Townships Association.
- An organization of police officers who regularly perform law enforcement duties on urban streets or roads.
- An organization of police officers who regularly perform law enforcement duties on suburban streets or roads.
- An organization of police officers who regularly perform law enforcement duties on rural streets or roads.
- An organization of police officers who regularly perform law enforcement duties on limited access roadways.

The members and alternates would have to be selected by the Council from a list of individuals provided by each group. Each entity that provided a list would have to state which persons were nominated as members and which were nominated as alternate members.

Members would serve two-year staggered terms, or until a successor was selected. A vacancy on the advisory panel would have to be filled in the same manner as original selection. If a member were absent from an advisory panel meeting, the person serving as the alternate member for that person would have to act as a member at that meeting.

Members of the advisory panel would have to be selected by the Council within 90 days after the bill's effective date and would have to hold their first meeting within 90 days after appointment.

The advisory panel would have to hold a regular annual meeting at a place and on a date fixed by the panel. Special meetings could be called by the chairperson or not less than seven advisory panel members, on at least three business days' actual notice. A majority of the advisory panel selected and serving would constitute a quorum. Final action by the advisory panel could only be by affirmative vote of a majority of members appointed and serving. A member could not vote by proxy.

Members of the advisory panel would serve without compensation. Expenses incurred in the performance of official duties would have to be reimbursed as provided by law for State employees. The advisory panel would have to assist the Council in performing its duties. The Council would have to provide facilities for meetings of the advisory panel and necessary office and clerical assistance.

#### Model Policy

Within one year after the advisory panel's first meeting, the Council, with the advice of the panel, would have to develop a model law enforcement vehicle pursuit and response policy governing emergency operation of law enforcement vehicles by a governmental agency. The model policy would have to do all of the following:

- Define the model policy's coverage.
- Recognize that pursuit or response had the potential for risk or harm.
- Identify the circumstances that would warrant initiation, maintenance, or termination of pursuit or response, based on: the risks to the physical safety of employees and the public, including innocent bystanders, of initiating or maintaining pursuit or response; and for pursuits involving the chase of a person charged with or suspected of a violation of law, the danger to society of not effecting immediate apprehension, including consideration of the seriousness and immediacy of the threat posed by a pursued person and the adequacy of alternative apprehension methods.
- Identify procedures for a law enforcement agency's initiation, maintenance, and termination of law enforcement pursuit and response, and include: authorization for an employee other than one actively engaged in the pursuit or response to prohibit, modify, or terminate the pursuit or response; specific rules governing law enforcement pursuits and responses that crossed jurisdictional boundaries; and specific rules governing permissible law enforcement pursuit and response methods and tactics.
- Establish guidelines requiring a law enforcement agency to monitor internally the effects of its law enforcement pursuit and response policy.
- Establish minimum requirements for law enforcement vehicle operators and provide guidelines for training employees to comply with an adopted pursuit and response policy.
- Include any other provision the advisory panel considered necessary for a model pursuit and response policy.

The Council would have to report the model policy developed by the advisory panel to the Senate and the House of Representatives and to each law enforcement agency in Michigan.

The advisory panel would have to meet at least once annually to review the model pursuit and response policy developed under the bill.

#### Adoption of Policy

A governmental agency could adopt all or part of the model policy developed under the bill, or could develop and adopt its own law enforcement vehicle pursuit and response policy. If a governmental agency adopted the model policy, it would have to notify the Council. If a governmental agency adopted either part of the model policy and part of its own policy or an entire policy of its own, it could send that policy to the Council for review and comment. The Council would have to make its review and comments in writing, including any recommendations for revision and improvement, and return those comments to the governmental agency as soon as possible.

If a governmental agency discontinued all or a portion of a pursuit and response policy adopted under the bill, the agency immediately would have to inform the Council, in writing, of the date on which the policy was discontinued. The Council would have to keep a record of what type of policy each agency adopted.

Legislative Analyst: P. Affholter

#### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local law enforcement agencies. The bill would require State reimbursement of expenses for the proposed Model Law Enforcement Vehicle Pursuit and Response Advisory Panel, an amount that most likely would not exceed \$10,000 per year. The Law Enforcement Council would be required to assist the panel and to provide facilities for panel meetings as well as necessary office and clerical support. In assisting the panel with its mandate of establishing emergency vehicle operation policies and guidelines, the Council would incur administrative costs which could be covered by existing Council resources.

Local law enforcement agencies could incur additional administrative and training costs should they opt to use, in whole or in part, the policy developed by the panel or to develop their own policy.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.