



**House  
Legislative  
Analysis  
Section**

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**POLICE PURSUIT POLICY COMMISSION**

**House Bill 5896 (Substitute H-1)  
First Analysis (11-29-90)**

**Sponsor: Rep. Kirk A. Profit  
Committee: Judiciary**

***THE APPARENT PROBLEM:***

Too frequently, a driver disobeys a police officer's order to stop and instead drives off, prompting the officer to give chase. A police officer who undertakes a hot pursuit is engaging in conduct with potentially deadly consequences; police pursuits are reported to have caused 10 deaths in the Detroit area in 1989, with an additional 20 injuries. Although it appears that the injured person is most often the offender or the police officer, occasionally an innocent bystander is hurt or killed, making the consequences of the pursuit all the more tragic. Clearly, the need to apprehend criminals must be balanced against the potential hazards of police pursuits. What is needed, many say, is legislation to develop a model policy for police to follow.

***THE CONTENT OF THE BILL:***

The bill would create a new public act, establishing the hot-pursuit model policy commission and prescribing its duties. The 16-member commission would be composed of a representative of the public appointed by the governor, plus one member appointed by each of the following: the Department of State Police, the Michigan Association of Chiefs of Police, the Michigan Sheriffs' Association, the police agency of each city with a population of one million or more, the Michigan Municipal League, the Michigan Townships Association, the Michigan Association of Counties, the Fraternal Order of Police, the Police Officers' Association of Michigan, the Deputy Sheriff Association of Michigan, the Detroit Police Officers' Association, the Michigan State Police Troopers Association, the United Auto Workers (technical, office, and professional department), the State Bar of Michigan, and the Michigan Trial Lawyers Association.

Administrative support for the commission would be provided by the Law Enforcement Officers Training Council. Commission members would serve without compensation, but would be entitled to actual and necessary expenses incurred in the performance of official duties. Commission business would be subject to the Open Meetings Act and the Freedom of Information Act.

Within one year after its first meeting (which would have to be held within 90 days of the bill's effective date), the commission would develop a model policy or alternative model policies concerning police pursuits. A policy would have to recognize that hot pursuit may involve the use of potentially deadly force; specify the circumstances warranting starting, continuing, and halting a hot pursuit; note risks to police and public, along with the danger to society of not immediately apprehending the offender (the seriousness and immediacy of the threat posed by the pursued person and the adequacy of other ways to apprehend him or her would have to be considered); specify the procedures for starting, continuing, and terminating a hot pursuit, along with permissible pursuit methods and tactics (such as use of firearms and procedures to be followed when a pursued vehicle has stopped). A policy also would have to

include provisions for a law enforcement agency to monitor the effects of its pursuit policy, and guidelines for training law enforcement agency employees.

The commission would report on the model policy or policies to the legislature. The report would also have to note the advisability of permitting variations (along with procedures for approval of them); applying legal sanctions against municipalities and law enforcement agencies that fail to adopt an approved policy; amending sections of the Michigan Vehicle Code that make special provision for emergency vehicles; and maintaining the commission to encourage adoption of a model policy and monitor its effects.

***FISCAL IMPLICATIONS:***

Fiscal information is not available. (11-28-90)

***ARGUMENTS:***

***For:***

The bill would create a qualified commission, representing many points of view and areas of expertise, that would develop a model policy on the use of hot pursuit by police. A police officer who undertakes a hot pursuit is employing potentially deadly force; a clearly understood policy on hot pursuit is as important as one on the use of a gun. As with the use of a gun, the need to apprehend a potentially dangerous criminal must be balanced against the hazards presented to innocent bystanders. Considering that most of the drivers who attempt to flee are not dangerous felons, but instead minor offenders (and often juveniles), it is especially important to ensure that police officers follow procedures that take all factors into account and specify when to start and when to stop a pursuit. By creating a commission to develop a model police pursuit policy with sufficient accommodation for local variations, the bill would improve law enforcement techniques and assure adequate regard for safety.

***Against:***

The bill would create additional bureaucracy, with its attendant expenses, to do something that is already being done; most police agencies already have policies on pursuit. If the concern is that policies be adequate, the bill is premature; the Department of State Police, in conjunction with Michigan State University and Ferris State University, is commencing an in-depth analysis of pursuit driving that should provide the detailed data necessary to properly evaluate policies. Further, a statewide model policy may be an unsuitable approach; conditions vary from locality to locality, and local agencies may be in the best position to determine what is appropriate for them.

***POSITIONS:***

The Deputy Sheriffs Association of Michigan supports the bill. (11-28-90)

The Michigan Association of Counties supports the bill. (11-28-90)

The Michigan Trial Lawyers Association supports the bill. (11-28-90)

The Police Officers Association of Michigan supports the concept of the bill, but has not reviewed the substitute and does not have a formal position at this time. (11-28-90)

The Department of State Police opposes the bill. (11-28-90)

The Michigan Sheriffs Association opposes the bill. (11-28-90)

The Office of Criminal Justice does not support creation of a new commission without additional funds or resources. (11-28-90)

The Michigan Townships Association does not oppose the bill. (11-28-90)

The Michigan Municipal League does not have a position on the current version of the bill. (11-28-90)