



**House
Legislative
Analysis
Section**

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HIGH SPEED PURSUIT MODEL POLICY

House Bills 5896-5901
Sponsor: Rep. Kirk A. Profit
Committee: Judiciary

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A SUMMARY OF HOUSE BILLS 5896-5901 AS INTRODUCED 6-21-90

House Bills 5896 through 5901 constitute a package of bills to require the development of a state model policy on high-speed police chases, and to establish various incentives for local law enforcement agencies to adopt the model policy. House Bill 5896 would create the High Speed Pursuit Model Policy Act, establishing a commission to develop a model policy, requiring the state police to adopt it, and prescribing sanctions to apply to local law enforcement agencies that fail to adopt it or an approved modification of it. House Bills 5897 through 5901 would amend various acts to provide for the sanctions to apply to local agencies that did not adopt the model policy; the bills could not take effect unless House Bill 5896 was enacted.

House Bill 5896 would create the High Speed Pursuit Model Policy Act under which a commission would be appointed to develop and approve a model policy concerning high speed pursuit. The director or principal officer of each of the following would appoint one member of the commission: the Department of State Police, the Michigan Association of Chiefs of Police, the Michigan Sheriffs' Association, 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, and the police agency of each city in this state with a population of one million or more (the commission would have eleven members, assuming Detroit qualifies for the last appointment). Commission members would serve without compensation, but would be entitled to expenses. Commission business would be subject to the Open Meetings Act and the Freedom of Information Act.

The commission would convene its first meeting within 30 days and develop the model policy within six months. The commission would be dissolved three years after its first meeting, after which the Office of Criminal Justice would assume the commission's duties regarding review and revision of the model policy, and approval of variances sought by local law enforcement agencies. The Law Enforcement Training Council, along with the Office of Criminal Justice, would assist the commission in performing its duties, including providing office and clerical assistance and facilities for commission meetings.

The model policy would have to: recognize high speed pursuit as the potential use of deadly force; provide a proper balance of the interest in immediate apprehension against the interest in safety of the police officer and the public; consider sections of law that suspend certain traffic laws for emergency vehicles; and incorporate all provisions that the commission considers necessary for the model policy. The commission (or later, the Office of Criminal Justice) would annually review the policy and revise it if necessary; local requests for variances would be considered in making revisions. The policy and later revisions would be adopted by the state police. Local law enforcement agencies could adopt the policy as approved or

House Bills 5896-5901 (8-21-90)

seek variance from a portion of the policy by applying to the commission (or Office of Criminal Justice) within five months of the policy's approval or revision. All applications for variance would be granted or denied within six months after the policy or revision was made.

Certain sanctions would apply to a law enforcement agency that did not adopt the model policy (or subsequent revision), along with any approved variance, within six months after the model policy was approved or revised. Without adoption of the model policy, the municipality or county involved would be ineligible to receive one-third of its state revenue sharing payment, and could not receive law enforcement assistance grants or reimbursements under any of the following acts: the justice training commission act (Public Act 302 of 1982), which provides funds for training of police officers and other criminal justice personnel; the Michigan Law Enforcement Training Officers Act, which provides funds for basic training of police recruits; and the act entitled "Of County Officers" (Chapter 14 of the Revised Statutes of 1846), which provides funding for secondary road patrols.

House Bills 5896 through 5900 would make complementary amendments to various acts providing for the funds to be withheld from localities that failed to adopt the model policy. House Bill 5897 would amend the State Revenue Sharing Act (MCL 141.917B), House Bill 5898 would amend the justice training commission act (MCL 18.421 and 18.423), House Bill 5899 would amend the Michigan Law Enforcement Officers Training Council Act (MCL 28.614), and House Bill 5900 would amend the law entitled "Of County Officers" (MCL 51.77).

House Bill 5901 would amend the governmental immunity act to make special provisions with regard to adoption of the high speed pursuit model policy. Where the law enforcement agency had not adopted an approved model policy on high speed pursuits, the bill would establish a rebuttable presumption of negligent operation of a motor vehicle when a high speed pursuit caused injury or damage. The rebuttable presumption would not be available to the pursued person or someone acting in concert with him or her. The county or municipality having jurisdiction over the law enforcement agency would be liable for at least 25 percent of a negligent operation judgment. Where subrogation of a judgment was sought, the county or municipality could not recover contribution for more than 75 percent of a judgment entered against it, unless the contribution was sought from the pursued person or someone acting in concert with the pursued person.

A peace officer of a law enforcement agency that had adopted the model policy would be immune from liability for injuries or damage caused by a high speed pursuit, providing the officer had followed the policy. In a civil or criminal action against a peace officer, where the action stemmed from a high speed pursuit and the law enforcement agency had not adopted the model policy, the county or municipality would have to pay for an attorney for the peace officer, and also would have to pay the attorney fees of any plaintiff who was not the pursued person or someone acting in concert with him or her. If the judgment in a civil suit went against the officer, the county or municipality would have to indemnify the officer for at least 25 percent of the judgment, or pay, settle, or compromise the judgment.

MCL 691.1401 et al.