

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1205 Session of 2020

INTRODUCED BY STREET, SCAVELLO, LAUGHLIN, COSTA, HUGHES, HAYWOOD, FONTANA, L. WILLIAMS, MUTH, KEARNEY, FARNESE, SANTARSIERO, BOSCOLA AND IOVINO, JUNE 22, 2020

SENATOR STEFANO, LAW AND JUSTICE, AS AMENDED, JUNE 22, 2020

AN ACT

1 ~~Amending Title 44 (Law and Justice) of the Pennsylvania~~ <--
2 ~~Consolidated Statutes, providing for actions by law~~
3 ~~enforcement.~~ AMENDING TITLE 53 (MUNICIPALITIES GENERALLY) OF <--
4 THE PENNSYLVANIA CONSOLIDATED STATUTES, IN EMPLOYEES,
5 PROVIDING FOR USE OF FORCE AND DEADLY FORCE MODEL POLICY FOR
6 LAW ENFORCEMENT AGENCIES.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Title 44 of the Pennsylvania Consolidated~~ <--
10 ~~Statutes is amended by adding a part to read:~~

PART V

ACTIONS BY LAW ENFORCEMENT

Chapter

91. Use of Force

CHAPTER 91

USE OF FORCE

Sec.

9101. Prohibition.

§ 9101. Prohibition.

1 ~~(a) General rule. Notwithstanding 18 Pa.C.S. § 508~~
2 ~~(relating to use of force in law enforcement) and except as~~
3 ~~provided under subsection (b), in making an arrest a~~
4 ~~Pennsylvania State police officer or municipal police officer:~~

5 ~~(1) May not:~~

6 ~~(i) apply the use of a choke hold;~~

7 ~~(ii) apply any pressure to the diaphragm, airways or~~
8 ~~any compression that inhibits breath or the flow of blood~~
9 ~~to the brain of the person; or~~

10 ~~(iii) hold the person in prone restraint or facedown~~
11 ~~while restrained for a period of time exceeding three~~
12 ~~minutes or as practical as to avoid positional asphyxia.~~

13 ~~(2) May not keep the person in prone restraint or a~~
14 ~~facedown position once the person is restrained.~~

15 ~~(b) Application. The prohibitions under subsection (a)~~
16 ~~shall not apply when the use of deadly force is permitted under~~
17 ~~law.~~

18 ~~(c) Definitions. As used in this section, the following~~
19 ~~words and phrases shall have the meanings given to them in this~~
20 ~~subsection unless the context clearly indicates otherwise:~~

21 ~~"Prone restraint." All items or measures used to restrain a~~
22 ~~person in a face down position.~~

23 ~~Section 2. This act shall take effect in 60 days.~~

24 SECTION 1. THE HEADING OF SUBCHAPTER C OF CHAPTER 21 OF <--
25 TITLE 53 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO
26 READ:

27 SUBCHAPTER C

28 [(RESERVED)]

29 USE OF FORCE AND DEADLY FORCE MODEL POLICY

30 FOR LAW ENFORCEMENT AGENCIES

1 SECTION 2. SUBCHAPTER C OF CHAPTER 21 OF TITLE 53 IS AMENDED
2 BY ADDING SECTIONS TO READ:

3 § 2141. POLICY.

4 IT IS THE POLICY OF THE COMMONWEALTH TO PROVIDE LAW
5 ENFORCEMENT AGENCIES AND LAW ENFORCEMENT OFFICERS WITH CLEAR
6 GUIDELINES AND TRAINING REGARDING THE USE OF FORCE AND DEADLY
7 FORCE.

8 § 2142. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 "BODILY INJURY." IMPAIRMENT OF PHYSICAL CONDITION OR
13 SUBSTANTIAL PAIN.

14 "CHOKER HOLD." A PHYSICAL MANEUVER THAT RESTRICTS AN
15 INDIVIDUAL'S ABILITY TO BREATHE FOR THE PURPOSES OF
16 INCAPACITATION.

17 "COMMISSIONER." THE MUNICIPAL POLICE OFFICERS' EDUCATION AND
18 TRAINING COMMISSION.

19 "COMMISSIONER." THE COMMISSIONER OF PENNSYLVANIA STATE
20 POLICE.

21 "DEADLY FORCE." FORCE WHICH, UNDER THE CIRCUMSTANCES IN
22 WHICH IT IS USED, IS READILY CAPABLE OF CAUSING DEATH OR SERIOUS
23 BODILY INJURY.

24 "FORCE." EFFORTS USED BY AN OFFICER THAT MAY RESULT IN
25 SERIOUS BODILY INJURY OR DEATH WHEN USED TO:

26 (1) EFFECTUATE AN ARREST.

27 (2) OVERCOME RESISTANCE OR THREATENED RESISTANCE TO
28 EFFECTUATE AN ARREST.

29 (3) PROTECT THE ARRESTING OFFICER OR ANY OTHER PERSON
30 FROM INJURY OR DEATH.

1 "LAW ENFORCEMENT AGENCY." A LAW ENFORCEMENT AGENCY IN THIS
2 COMMONWEALTH THAT IS THE EMPLOYER OF A LAW ENFORCEMENT OFFICER.

3 "LAW ENFORCEMENT OFFICER." THE TERM SHALL HAVE THE SAME
4 MEANING AS THE TERM "PEACE OFFICER" UNDER 18 PA.C.S. § 501
5 (RELATING TO DEFINITIONS).

6 "SERIOUS BODILY INJURY." BODILY INJURY THAT CREATES A
7 SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT
8 DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION
9 OF A BODILY MEMBER OR ORGAN.

10 "WEAPON." ANYTHING READILY CAPABLE OF LETHAL USE AND
11 POSSESSED UNDER CIRCUMSTANCES NOT MANIFESTLY APPROPRIATE FOR
12 LAWFUL USES WHICH IT MAY HAVE. THE TERM INCLUDES A FIREARM WHICH
13 IS NOT LOADED OR LACKS A CLIP OR OTHER COMPONENT TO RENDER IT
14 IMMEDIATELY OPERABLE, AND COMPONENTS WHICH CAN READILY BE
15 ASSEMBLED INTO A WEAPON.

16 § 2143. WRITTEN POLICIES REQUIRED.

17 (A) GENERAL RULE.--EACH LAW ENFORCEMENT AGENCY SHALL DEVELOP
18 AND IMPLEMENT A WRITTEN USE OF FORCE POLICY GOVERNING THE
19 PROCEDURES UNDER WHICH A LAW ENFORCEMENT OFFICER SHOULD
20 INITIATE, CONTINUE AND TERMINATE THE USE OF FORCE. THIS POLICY
21 MAY BE THE MODEL POLICY ENDORSED BY A NATIONAL OR STATE
22 ORGANIZATION OR ASSOCIATION THAT IS CONSISTENT WITH THE
23 REQUIREMENTS OF THIS SUBCHAPTER. THE WRITTEN POLICY SHALL
24 REFLECT CONSIDERATION OF THE GUIDELINES UNDER THIS SECTION.

25 (B) INTENT OF GUIDELINES.--THE GUIDELINES UNDER THIS SECTION
26 ARE SOLELY INTENDED TO DIRECT AGENCIES IN DEVELOPING USE OF
27 FORCE POLICIES AND OUTLINE THE CONTENT OF THESE POLICIES. THE
28 GUIDELINES CONTAINED IN THIS SECTION ARE NOT INTENDED TO MANDATE
29 THE ACTIONS OF INDIVIDUAL LAW ENFORCEMENT OFFICERS.

30 (C) POLICY GUIDELINES.--EACH AGENCY POLICY SHALL BE

1 CONSISTENT WITH CURRENT TRAINING AND CERTIFICATION STANDARDS AND
2 INCLUDE THE FOLLOWING PROCEDURAL ELEMENTS:

3 (1) DECISION-MAKING CRITERIA OR PRINCIPLES FOR
4 INITIATION OF FORCE. THESE CRITERIA OR PRINCIPLES MAY
5 INCLUDE, BUT ARE NOT LIMITED TO:

6 (I) THE SEVERITY OF THE CRIME AT ISSUE.
7 (II) WHETHER THE SUSPECT POSES AN IMMEDIATE THREAT
8 TO THE SAFETY OF THE LAW ENFORCEMENT OFFICER OR OTHERS.
9 (III) THE POTENTIAL FOR HARM OR IMMEDIATE OR
10 POTENTIAL DANGER TO OTHERS IF THE FLEEING INDIVIDUAL OR
11 INDIVIDUALS ESCAPE.

12 (IV) WHETHER THE SUSPECT IS ACTIVELY RESISTING
13 ARREST OR ATTEMPTING TO EVADE ARREST BY FLIGHT.
14 (V) SAFETY FACTORS THAT POSE A RISK TO LAW
15 ENFORCEMENT OFFICERS AND OTHER PERSONS.

16 (VI) WHETHER THE SUSPECT IS IN POSSESSION OF A
17 WEAPON.

18 (VII) OTHER RELEVANT INFORMATION THAT THE LAW
19 ENFORCEMENT OFFICER REASONABLY BELIEVES TO BE TRUE AT THE
20 TIME.

21 (2) RESPONSIBILITIES OF THE LAW ENFORCEMENT OFFICERS.
22 (3) RESPONSIBILITIES OF THE FIELD SUPERVISOR.
23 (4) DECISION-MAKING CRITERIA OR PRINCIPLES FOR
24 TERMINATION OF FORCE. THESE CRITERIA OR PRINCIPLES MAY
25 INCLUDE SAFETY FACTORS THAT POSE A RISK TO LAW ENFORCEMENT
26 OFFICERS AND OTHER PERSONS.

27 (5) RECORDKEEPING PROTOCOLS FOR USE OF FORCE INCIDENTS.
28 (D) POLICY REQUIREMENTS.--EACH AGENCY POLICY SHALL PROHIBIT
29 THE USE OF CHOKE HOLDS BY LAW ENFORCEMENT OFFICERS EXCEPT IN
30 CASES IN WHICH DEADLY FORCE IS AUTHORIZED.

1 (E) TRAINING GOVERNING USE OF FORCE.--BEFORE CARRYING A
2 WEAPON, EACH LAW ENFORCEMENT OFFICER SHALL RECEIVE TRAINING AND
3 INSTRUCTION WITH REGARD TO THE PROPER USE OF FORCE AND TO THE
4 AGENCY'S POLICIES AND STATUTES WITH REGARD TO FORCE. THE
5 TRAINING AND INSTRUCTION SHALL CONTINUE ON AN ANNUAL BASIS AND
6 MAY INCLUDE THE FOLLOWING CRITERIA:

7 (1) EACH LAW ENFORCEMENT OFFICER SHALL CARRY AND USE
8 ONLY AUTHORIZED WEAPONS UNLESS CIRCUMSTANCES EXIST WHICH POSE
9 AN IMMEDIATE THREAT TO THE SAFETY OF THE LAW ENFORCEMENT
10 OFFICER OR THE PUBLIC REQUIRING THE USE OF A WEAPON OR OBJECT
11 THAT HAS NOT BEEN AUTHORIZED TO COUNTER A THREAT.

12 (2) WITH AGENCY APPROVAL, LAW ENFORCEMENT OFFICERS MAY
13 MODIFY, ALTER OR CAUSE TO BE ALTERED AN AUTHORIZED WEAPON IN
14 THE LAW ENFORCEMENT OFFICER'S POSSESSION OR CONTROL.

15 (3) A LAW ENFORCEMENT OFFICER SHOULD USE DISCRETION TO
16 DETERMINE REASONABLE FORCE OPTIONS TO BRING A SUSPECT UNDER
17 CONTROL. A LAW ENFORCEMENT OFFICER IS NOT REQUIRED TO FIRST
18 ATTEMPT USING TYPES AND DEGREES OF FORCE THAT REASONABLY
19 APPEAR TO BE INADEQUATE TO ACCOMPLISH THE INTENDED OBJECTIVE.

20 (4) A LAW ENFORCEMENT OFFICER MAY ANNOUNCE THE INTENTION
21 TO USE REASONABLE FORCE.

22 (5) A LAW ENFORCEMENT OFFICER SHOULD CONSIDER WHETHER IT
23 IS REASONABLY PRUDENT TO USE DE-ESCALATION AND HARM REDUCTION
24 TECHNIQUES.

25 (F) BIENNIAL CERTIFICATION.--EVERY OTHER YEAR, THE
26 COMMISSION SHALL CERTIFY WHETHER EACH AGENCY HAS A USE OF FORCE
27 POLICY IN EFFECT. THE COMMISSION SHALL PROVIDE THE PENNSYLVANIA
28 STATE POLICE WITH A LIST OF THOSE AGENCIES THAT HAVE OR HAVE NOT
29 NOTIFIED OR CERTIFIED TO THE COMMISSION THAT THE AGENCY HAS A
30 USE OF FORCE POLICY. THE BIENNIAL CERTIFICATION MAY BE

1 IMPLEMENTED SIMULTANEOUSLY WITH OTHER CERTIFICATIONS CONDUCTED
2 BY THE COMMISSION.

3 (G) POLICY AVAILABILITY.--A POLICY ADOPTED UNDER THIS
4 SECTION SHALL BE MADE AVAILABLE TO THE GENERAL PUBLIC UPON
5 REQUEST AND SHALL BE POSTED ON A PUBLICLY ACCESSIBLE INTERNET
6 WEBSITE MAINTAINED BY THE LAW ENFORCEMENT AGENCY.

7 (H) LIMITATIONS.--A LAW ENFORCEMENT AGENCY POLICY MUST BE
8 CONSISTENT WITH THE REQUIREMENTS OF 18 PA.C.S. CH. 5 (RELATING
9 TO GENERAL PRINCIPLES OF JUSTIFICATION).

10 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.