

#B. 601

#Police Use of Force Reform Act

IN THE ASSEMBLY

June 23rd, 2020 Mr. stormstopper introduced the following legislation.

#A BILL

Be it enacted by the Assembly of the State of Dixie.

#SECTION I. SHORT TITLE

(1) This act shall be referred to as the “Police Use of Force Reform Act.”

#SECTION II. ASSEMBLY FINDINGS

(1) Eight concrete policies can reduce deaths at the hands of police, save lives, and restore trust between police and the community.

(2) Those policies include:

- (a) A ban on chokeholds and strangleholds,
- (b) A de-escalation requirement,
- (c) A requirement of a warning prior to shooting,
- (d) A requirement to attempt to use non-lethal or less-lethal methods first,
- (e) A duty to intervene,
- (f) A ban on shooting at moving vehicles,
- (g) An establishment of a use-of-force continuum, and
- (h) A requirement of comprehensive reporting upon the use or threat of force.

#SECTION III. DEFINITIONS

- (1) “Law enforcement officer” or “officer” is defined in the same manner as “law enforcement officer” is defined in Dixie statute [943.10](#).
- (2) “Deadly force” or “lethal force” is defined in the same manner as the term “deadly force” as it appears in Dixie Statute [776.06](#).
- (3) A “chokehold” or a “stranglehold” shall be defined as

#SECTION IV. PROVISIONS

- (1) [Dixie statute 776.05](#) is amended as follows:

Law enforcement officers; use of force in making an arrest.—

~~(1)~~ A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any non-deadly force:

~~(1)(a)~~ Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;

~~(2)(b)~~ When necessarily committed in retaking felons who have escaped;
or

~~(3)(c)~~ When necessarily committed in arresting felons fleeing from justice.

(2) The officer is justified in the use of any deadly force if clause 1(a), clause 1(b), or clause 1(c) is satisfied and a reasonable person would conclude that deadly force was necessary, a standard which shall be considered met if all of the following elements are satisfied:

(a) All possible alternatives to deadly force have been exhausted or rendered irrelevant, including:

(1) All reasonable efforts to peacefully de-escalate the situation by communicating with subjects and maintaining distance.

(2) All reasonable uses of non-lethal force or less-lethal force as an alternative to deadly force.

(3) A verbal warning has been provided to the subject prior to initiating deadly force.

(b) The use of force did not include any of the following actions:

(1) The discharge of a firearm at a moving vehicle,

(2) A “chokehold,” a “stranglehold,” or any other intentional, reckless, or negligent physical restriction of a subject’s neck, breathing, airway, or blood flow,

(3) The continued use of deadly force against a subject who has ceased resistance and is no longer a threat to cause death or great bodily harm.

(3) However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

(a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

(b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

(c) All of the elements in section (2) of this statute are satisfied.

(4) Any law enforcement officer who witnesses another officer using excessive force against a civilian as defined by applicable state, local, and federal law and the relevant department policy shall have a duty to intervene on the civilian’s behalf.

(a) The duty to intervene shall be satisfied if the intervening officer makes every reasonable effort to follow each of these steps:

(1) Provide a verbal warning to the offending officer.

(2) Inhibit any active, future, or ongoing use of excessive force by the offending officer.

(3) Call for backup if steps (1) and (2) are not immediately successful.

(4) Verbally report to his or her superior officer (or best reasonable alternative if the superior officer is the offending officer or is otherwise unavailable) at the earliest possible opportunity.

(b) An officer who witnesses the unlawful use of excessive force by another officer against a civilian and does not satisfy their duty to intervene shall be found equally culpable of any violation of the law by an officer that a perfectly successful intervention could have prevented.

(c) An officer who witnesses a tortious use of excessive force by an officer against a civilian and does not satisfy their duty to intervene shall be found civilly liable for not more than 50% of all damages awarded that a perfectly successful intervention could have prevented.

(d) An officer's failure to satisfy their duty to intervene against the use of excessive force by an officer against a civilian in violation of state, local, or federal law or relevant department policy shall be grounds for immediate termination of employment for cause.

(e) An intervening officer shall be considered justified in using any non-lethal force to prevent an officer from using excessive force against a civilian.

(f) Any officer who witnessed another officer use force or threaten to use force against a civilian shall file a comprehensive report within 72 hours detailing at minimum:

_____ (1) The type of force used or threatened.

(2) Whether or not the department's use-of-force continuum was followed.

(3) All justifications for intervening or declining to intervene against the officer using force.

(4) If an intervention was made, any steps that were taken to intervene, whether each step taken was successful, whether the intervention as a whole was successful, and any justification for taking or declining to take each step prescribed by law or department policy.

(5) If no intervention was made, whether a reasonable person could have or would have intervened, and why or why not.

(5) Any officer who uses force against a civilian or threatens to use force against a civilian shall file a comprehensive report within 72 hours of the action detailing at minimum:

(a) The type of force used or threatened.

(b) All steps taken to de-escalate the situation and any justification for declining to take any given steps.

(c) Any warning given prior to using force and any justification for declining to provide a warning.

(d) Any alternative uses of force used or considered, or any justification for declining to use any alternative methods of force.

(e) All compliance or noncompliance with the department's use-of-force continuum policy.

(f) Any attempt by an officer to intervene against the reporting officer's use of force, whether or not the attempt was heeded, and any justification therefore.

(2) Dixie statute 776.06 is amended by adding clause 1(c) to read:

(c) A “chokehold,” a “stranglehold,” or any other intentional, reckless, or negligent physical restriction of a subject’s neck, breathing, airway, or blood flow, even though no intent exists to kill or inflict great bodily harm.

- (3) Each law enforcement agency in the state of Dixie shall notify all of its employees of the provisions of this act within 5 business days of its passage.
- (4) Each law enforcement agency in the state of Dixie shall create or update its use-of-force continuum policy to clearly outline the level of force that is appropriate to apply to any given level of threat a law enforcement officer may face, to restrict the use of deadly force only to situations where it is necessary to defend oneself or another from death or great bodily harm, and to otherwise comply with this act.
 - (a) The use-of-force continuum policy must be updated within 30 days of the passage of this act, at which point each law enforcement agency shall disseminate the policy to each of its employees and to the general public under its jurisdiction.
- (5) Each law enforcement agency in the state of Dixie shall train all of its law enforcement officers in its compliant use-of-force policy within 60 days of the passage of this act.

#SECTION V. ENACTMENT

- (1) This legislation shall come into effect immediately upon its successful passage.
- (2) This legislation shall take precedence over all previous pieces of legislation that might contradict it.
- (3) Should any part of this resolution be struck down due to being unconstitutional, the rest shall remain law.

This act was written and sponsored by Speaker /u/stormstopper (D-DX)