

HOUSE BILL NO. 5020

June 15, 2021, Introduced by Reps. Cavanagh, Yancey, Sowerby, Hertel, Brixie, O'Neal, Stone, Bolden, Weiss, Brenda Carter, Thanedar, Cynthia Johnson, Young, Rabhi, Kuppa and Jones and referred to the Committee on Government Operations.

A bill to prohibit the use of chemical agents or kinetic energy projectiles as a crowd control mechanism by law enforcement officers; to require law enforcement agencies to submit certain reports; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Chemical agent" means a chemical that can rapidly produce
3 sensory irritation or disabling physical effects to an individual

1 and disappears within a short time following the termination of the
2 exposure. The term includes, but is not limited to, any of the
3 following:

4 (i) Items commonly referred to as pepper balls, pepper spray,
5 or oleoresin capsicum.

6 (ii) Chloroacetophenone tear gas, commonly known as CN tear
7 gas.

8 (iii) 2-chlorobenzalmalononitrile gas, commonly known as CS gas.

9 (b) "Department" means the department of state police.

10 (c) "Kinetic energy projectile" means any type of device
11 designed as less lethal that can be launched from any device as a
12 projectile and may cause bodily injury through the transfer of
13 kinetic energy and blunt force trauma. The term includes, but is
14 not limited to, items commonly referred to as rubber bullets,
15 plastic bullets, beanbag rounds, or foam-tipped plastic rounds.

16 (d) "Law enforcement agency" means that term as defined in
17 section 2 of the Michigan commission on law enforcement standards
18 act, 1965 PA 203, MCL 28.602.

19 (e) "Law enforcement officer" means that term as defined in
20 section 2 of the Michigan commission on law enforcement standards
21 act, 1965 PA 203, MCL 28.602.

22 Sec. 2. A law enforcement officer shall not use a chemical
23 agent or a kinetic energy projectile as a crowd control mechanism
24 if the crowd is not engaged in rioting. A law enforcement officer
25 shall not use a chemical agent or kinetic energy projectile for a
26 violation of an imposed curfew, a verbal threat, or mere
27 noncompliance with the law enforcement officer's directive.

28 Sec. 3. (1) Notwithstanding section 2, a law enforcement
29 officer shall not deploy or use a chemical agent or a kinetic

1 energy projectile at the scene of a riot unless the law enforcement
2 officer was trained in the use of the chemical agent or the kinetic
3 energy projectile.

4 (2) A law enforcement officer who deploys or uses a chemical
5 agent or kinetic energy projectile at the scene of a riot shall aim
6 the chemical agent or kinetic energy projectile from at least 5
7 feet away at an individual's navel or belt line. A law enforcement
8 officer shall not aim the chemical agent or kinetic energy
9 projectile at an individual's head or neck.

10 (3) If a law enforcement officer deploys a chemical agent or a
11 kinetic energy projectile at the scene of a riot, the law
12 enforcement officer shall only fire the chemical agent or kinetic
13 energy projectile at a specific target who presents a clear and
14 imminent threat to him- or herself, law enforcement officers, or
15 other individuals. The law enforcement officer shall be mindful of
16 the increased risk of hitting an unintended target due to
17 unexpected movement of members of the crowd. A law enforcement
18 officer shall not use a chemical agent or a kinetic energy
19 projectile indiscriminately against a crowd or group of
20 individuals. A law enforcement officer shall issue a verbal warning
21 to the crowd, if practical, before deploying a chemical agent or
22 kinetic energy projectile. A law enforcement officer shall not fire
23 a chemical agent or a kinetic energy projectile at an individual
24 who is running away.

25 Sec. 4. (1) Beginning on the effective date of this act, a law
26 enforcement agency shall, on or before January 1 of each year,
27 submit a report to the department explaining, for the preceding
28 year, all of the following:

29 (a) The reason for the deployment or use of a chemical agent

1 or a kinetic energy projectile by a law enforcement officer in its
2 employ.

3 (b) The number or rounds of a chemical agent or kinetic energy
4 projectile that were deployed by a law enforcement officer in its
5 employ.

6 (c) Whether an individual was injured as a result of the use
7 of the chemical agent or kinetic energy projectile by a law
8 enforcement officer in its employ.

9 (2) Beginning on January 1, 2023, a law enforcement agency
10 shall publish the report required under subsection (1) on its
11 website.

12 (3) On receipt of the report required under subsection (1),
13 the department shall submit the report to the senate committee on
14 judiciary and public safety, the house committee on judiciary, and
15 the committee on appropriations in both houses of the legislature.
16 The department shall submit the first report required under this
17 subsection not later than January 1, 2023. Thereafter, the
18 department shall submit the report every 2 years.