

SENATE BILL NO. 481

May 25, 2021, Introduced by Senators CHANG, BULLOCK, GEISS, IRWIN, ANANICH, MOSS, HOLLIER, BRINKS, WOJNO, SANTANA, HERTEL, POLEHANKI and BAYER and referred to the Committee on Judiciary and Public Safety.

A bill to require law enforcement agencies to adopt certain policies on the use of force by law enforcement officers; to require law enforcement agencies to update the use of force policies; 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) "Deadly force" means any force that a reasonable person
- 3 would consider likely to cause death or serious bodily harm.
- 4 (b) "De-escalation technique" means a range of integrated

1 strategies and tactics used by a law enforcement officer to diffuse
2 a potentially volatile or violent situation with the aim to reduce
3 the level of force required for resolution while ensuring the
4 safety of the law enforcement officer and public.

5 (c) "Law enforcement agency" means that term as defined in
6 section 2 of the Michigan commission on law enforcement standards
7 act, 1965 PA 203, MCL 28.602.

8 (d) "Law enforcement officer" means that term as defined in
9 section 2 of the Michigan commission on law enforcement standards
10 act, 1965 PA 203, MCL 28.602.

11 (e) "Minor offense" means that term as defined in section 1 of
12 chapter I of the code of criminal procedure, 1927 PA 175, MCL
13 761.1.

14 (f) "Physical force" means the application of physical
15 techniques or tactics, chemical agents, electronic control devices,
16 or lethal or nonlethal weapons to an individual to overcome
17 resistance or achieve compliance.

18 (g) "Policy" means the use of force policy adopted by a law
19 enforcement agency under section 2.

20 (h) "Serious bodily harm" means any bodily injury that creates
21 a substantial risk of death, permanent or temporary disfigurement,
22 permanent or temporary loss or impairment of a function of any
23 bodily limb or organ, or causes extreme physical pain.

24 Sec. 2. (1) Beginning 6 months after the effective date of
25 this act, each law enforcement agency shall adopt a use of force
26 policy.

27 (2) The policy required under subsection (1) must include, at
28 a minimum, all of the following:

29 (a) A requirement that a law enforcement officer shall not use

1 physical force that is greater than that which is necessary to
2 accomplish any of the following, unless de-escalation techniques
3 have been attempted and failed or are not feasible based on the
4 totality of the circumstances:

5 (i) Stop an ongoing crime.

6 (ii) Effect a lawful arrest or detention.

7 (iii) Prevent the escape of an individual from actual physical
8 custody or from a law enforcement officer that is attempting to
9 take the individual into custody.

10 (iv) Defend the law enforcement officer or an individual from
11 what the law enforcement officer reasonably believes to be an
12 imminent use of physical force against the law enforcement officer
13 or an individual.

14 (b) A continuum detailing the levels of a law enforcement
15 officer's response that is proportional in response to an
16 individual's action or resistance level or, if applicable,
17 proportional in response to the threat of imminent harm to a law
18 enforcement officer or an individual.

19 (c) A requirement that a law enforcement officer shall give a
20 verbal warning, whenever it is practical and safe to do so, before
21 using physical force.

22 (d) A requirement that a law enforcement officer may use or
23 attempt to use deadly force only when the use of deadly force is
24 necessary to achieve any of the following:

25 (i) Protect the law enforcement officer or another individual
26 from an imminent threat of death or serious bodily harm. For
27 purposes of this act, a threat is imminent if the individual who
28 poses the threat reasonably appears to have the present ability,
29 opportunity, and intent to immediately cause death or serious

1 bodily harm to a law enforcement officer or another individual.

2 (ii) Effect an arrest when there is probable cause to believe
3 that the individual has committed an offense involving the death or
4 serious bodily harm of another individual or the law enforcement
5 officer has reason to believe that the individual would cause death
6 or serious bodily harm to another individual or the law enforcement
7 officer if not immediately apprehended, and the law enforcement
8 officer's use of deadly force does not create a significant risk of
9 death or serious bodily harm to another individual other than the
10 individual against whom the deadly force is to be used.

11 (e) A requirement that a law enforcement officer must exhaust
12 all other alternatives that are reasonable and proportional
13 considering the totality of the circumstances, including, but not
14 limited to, any imminent threats to the safety of the law
15 enforcement officer and other individuals, the time available to
16 react, and the severity of the crime, before resorting to the use
17 of deadly force. For purposes of this subdivision, "reasonable
18 alternatives" means the use of less-lethal force or non-force
19 tactics or techniques that are intended to stabilize a situation
20 and reduce the immediacy of the threat. Reasonable alternatives
21 include, but are not limited to, any of the following:

22 (i) The use of cover, containment, or tactical repositioning.

23 (ii) Deployment of special equipment or resources to the scene,
24 such as the deployment of mental health professionals trained in
25 crisis intervention.

26 (iii) Requesting additional law enforcement officers at the
27 scene.

28 (iv) Surveillance of an individual suspected to have committed
29 a crime.

1 (v) Verbal communication with the individual against whom the
2 deadly force is to be used.

3 (f) A requirement that deadly force may not be used solely to
4 protect property or against an individual who poses a risk of
5 bodily harm only to himself or herself.

6 (3) Nothing in this act prohibits a law enforcement agency
7 from adopting a policy that exceeds the requirements of this act.

8 Sec. 3. Each law enforcement agency shall do both of the
9 following:

10 (a) Continuously update its policy using the Michigan
11 commission on law enforcement standards subject control continuum.

12 (b) Ensure that its updated policy complies with this act and
13 is consistent with case law precedent.