

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 459 Session of 2019

INTRODUCED BY COSTA, FONTANA, HUGHES, SCHWANK, HAYWOOD, KEARNEY, A. WILLIAMS, STREET, MUTH, SANTARSIERO, FARNESE, IOVINO AND BOSCOLA, MARCH 21, 2019

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

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in employees, providing for use of
3 force and deadly force model policy for law enforcement <--
4 agencies. RECORDKEEPING AND REPORTING FOR LAW ENFORCEMENT <--
5 AGENCIES.

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

8 Section 1. The heading of Subchapter € B of Chapter 21 of <--
9 Title 53 of the Pennsylvania Consolidated Statutes is amended to
10 read:

11 SUBCHAPTER [C] B <--

12 [(Reserved)]

13 USE OF FORCE AND DEADLY FORCE MODEL POLICY <--

14 RECORDKEEPING AND REPORTING <--

15 FOR LAW ENFORCEMENT AGENCIES

16 Section 2. Subchapter € B of Chapter 21 of Title 53 is <--
17 amended by adding sections to read:

18 § 2141 2131. Policy. <--

19 It is the policy of the Commonwealth to provide <--

1 ~~municipalities, agencies and officers with clear guidelines and~~
2 ~~training regarding the use of force and deadly force. IT IS THE~~ <--
3 ~~POLICY OF THE COMMONWEALTH TO PROVIDE LAW ENFORCEMENT AGENCIES~~
4 ~~WITH RECORDKEEPING AND REPORTING REQUIREMENTS REGARDING THE USE~~
5 ~~OF FORCE AND DEADLY FORCE BY LAW ENFORCEMENT OFFICERS.~~

6 § 2142 2132. Definitions. <--

7 The following words and phrases when used in this subchapter
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 ~~"Agency." A police department of a municipality.~~ <--

11 ~~"Bodily injury." Impairment of physical condition or~~
12 ~~substantial pain.~~

13 ~~"Commission." The Municipal Police Officers' Education and~~
14 ~~Training Commission.~~

15 ~~"Commissioner." The Commissioner of Pennsylvania State~~
16 ~~Police.~~

17 ~~"Deadly force." Force which, under the circumstances in~~ <--
18 ~~which it is used, is readily capable of causing death or serious~~
19 ~~bodily injury.~~

20 ~~"Force."~~

21 ~~(1) Efforts used by an officer that may result in bodily~~
22 ~~injury, serious bodily injury or death when used to:~~

23 ~~(i) Effectuate an arrest.~~

24 ~~(ii) Overcome resistance or threatened resistance to~~
25 ~~effectuate an arrest.~~

26 ~~(iii) Protect the arresting officer or any other~~
27 ~~person from injury or death.~~

28 ~~(2) The term includes deadly force and other than deadly~~
29 ~~force.~~

30 ~~"Municipality." A county, city, borough, town or township.~~

1 ~~"Officer." Any of the following:~~

2 ~~(1) A full time or part time employee assigned to~~
3 ~~criminal or traffic law enforcement duties at an agency.~~

4 ~~(2) A deputy sheriff of a county of the second class.~~

5 ~~(3) A security officer of a first class city housing~~
6 ~~authority or a police officer of a second class city housing~~
7 ~~authority.~~

8 ~~(4) A county park police officer.~~

9 ~~"Other than deadly force." Force used by an officer that~~
10 ~~does not have the intentional purpose of causing, nor creates a~~
11 ~~substantial risk of causing, death or serious bodily injury.~~

12 ~~"Serious bodily injury." Bodily injury that creates a~~
13 ~~substantial risk of death or which causes serious, permanent~~
14 ~~disfigurement or protracted loss or impairment of the function~~
15 ~~of a bodily member or organ.~~

16 ~~"Weapon." A firearm, taser or other instrument capable of~~
17 ~~inflicting serious bodily injury or death.~~

18 ~~§ 2143. Written policies required.~~

19 ~~(a) General rule. Each agency shall develop and implement a~~
20 ~~written use of force policy governing the procedures under which~~
21 ~~an officer should initiate, continue and terminate the use of~~
22 ~~force. This policy may be the model policy endorsed by a~~
23 ~~national or State organization or association that is consistent~~
24 ~~with the requirements of this subchapter. The written policy~~
25 ~~shall, at a minimum, incorporate the guidelines under this~~
26 ~~section.~~

27 ~~(b) Intent of guidelines. The guidelines under this section~~
28 ~~are solely intended to direct agencies in developing use of~~
29 ~~force policies and outline the content of these policies. The~~
30 ~~guidelines contained in this section are not intended to mandate~~

1 ~~the actions of individual officers.~~

2 ~~(c) Policy guidelines. Each agency policy shall include the~~
3 ~~following procedural elements:~~

4 ~~(1) Decision making criteria or principles for~~
5 ~~initiation of force. These criteria or principles may~~
6 ~~include:~~

7 ~~(i) The severity of the crime at issue.~~

8 ~~(ii) Whether the suspect poses an immediate threat~~
9 ~~to the safety of the officer or others.~~

10 ~~(iii) The potential for harm or immediate or~~
11 ~~potential danger to others if the fleeing individual or~~
12 ~~individuals escape.~~

13 ~~(iv) Whether the suspect is actively resisting~~
14 ~~arrest or attempting to evade arrest by flight.~~

15 ~~(v) Safety factors that pose a risk to officers and~~
16 ~~other persons.~~

17 ~~(vi) Whether the suspect is in possession of a~~
18 ~~weapon.~~

19 ~~(2) Responsibilities of the officers.~~

20 ~~(3) Responsibilities of the field supervisor.~~

21 ~~(4) Decision making criteria or principles for~~
22 ~~termination of force. These criteria or principles may~~
23 ~~include safety factors that pose a risk to officers and other~~
24 ~~persons.~~

25 ~~(5) Other relevant information that the officer~~
26 ~~reasonably believes to be true at the time.~~

27 ~~(6) Recordkeeping protocols for use of force incidents.~~

28 ~~(d) Rules governing use of force. Before carrying a weapon,~~
29 ~~each officer shall receive training and instruction with regard~~
30 ~~to the proper use of force and to the agency's policies and~~

1 ~~statutes with regard to force. The training and instruction~~
2 ~~shall continue on an annual basis. The following apply:~~

3 ~~(1) Each officer shall carry and use only authorized~~
4 ~~weapons unless circumstances exist which pose an immediate~~
5 ~~threat to the safety of the officer or the public requiring~~
6 ~~the use of a weapon or object that has not been authorized to~~
7 ~~counter a threat.~~

8 ~~(2) With agency approval, officers may modify, alter or~~
9 ~~cause to be altered an authorized weapon in the officer's~~
10 ~~possession or control.~~

11 ~~(3) An officer should use discretion to determine~~
12 ~~reasonable force options to bring a suspect under control. An~~
13 ~~officer is not required to first attempt using types and~~
14 ~~degrees of force that reasonably appear to be inadequate to~~
15 ~~accomplish the intended objective.~~

16 ~~(4) An officer may announce the intention to use~~
17 ~~reasonable force.~~

18 ~~(5) An officer should consider whether it is reasonably~~
19 ~~prudent to use de-escalation and harm reduction techniques.~~

20 ~~(e) Biennial certification. Every other year, the~~
21 ~~commission shall certify whether each agency has a use of force~~
22 ~~policy in force. The commission shall provide the Pennsylvania~~
23 ~~State Police with a list of those agencies that have or have not~~
24 ~~notified or certified to the commission that the agency has a~~
25 ~~use of force policy. The biennial certification may be~~
26 ~~implemented simultaneously with other certifications conducted~~
27 ~~by the commission.~~

28 ~~(f) Policy availability. A policy adopted under this~~
29 ~~section shall be made available to the general public upon~~
30 ~~request and shall be posted on a publicly accessible Internet~~

1 ~~website maintained by the municipality.~~

2 ~~(g) Limitations. An agency policy must be consistent with~~
3 ~~the requirements of 18 Pa.C.S. Ch. 5 (relating to general~~
4 ~~principles of justification).~~

5 "LAW ENFORCEMENT AGENCY." A LAW ENFORCEMENT AGENCY IN THIS <--
6 COMMONWEALTH THAT IS THE EMPLOYER OF A LAW ENFORCEMENT OFFICER.

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

10 § ~~2144~~ 2133. Recordkeeping. <--

11 (a) General rule.--Each LAW ENFORCEMENT agency shall <--
12 maintain records of all incidents involving a use of force BY A <--
13 LAW ENFORCEMENT OFFICER.

14 (b) Procedure.--The commissioner, in consultation with the
15 Pennsylvania Chiefs of Police Association and the Fraternal
16 Order of Police, shall develop a reporting mechanism each LAW <--
17 ENFORCEMENT agency must comply with and submit records of all
18 use of force incidents. The commissioner, with the approval of
19 the commission, shall determine the most efficient and least
20 burdensome procedure for which this reporting requirement shall
21 be implemented, administered and maintained. This procedure may
22 be incorporated at the discretion of the commissioner within
23 existing or forthcoming uniform crime reporting functions,
24 including a national incident-based reporting system.

25 (c) Content.--The report shall include the following
26 information:

27 (1) Reason for use of force.

28 (2) Injuries, if any, and to what individuals.

29 (3) Property damage, if any.

30 (4) Deaths, if any.

1 (5) Suspect information, including statute violations
2 and apprehension status of the suspect.

3 ~~(6) Any other information deemed necessary by the~~ <--
4 ~~commissioner to evaluate and improve policies.~~

5 (d) Implementation.--The commissioner may implement the
6 reporting requirements to coincide with the timing of the
7 implementation of a national incident-based reporting system
8 within this Commonwealth.

9 ~~§ 2145~~ 2134. Pennsylvania State Police report. <--

10 (a) Annual report.--The Pennsylvania State Police shall
11 compile data sent by individual agencies on an annual basis. The
12 Pennsylvania State Police shall make an annual report based on
13 Statewide data to the Office of Attorney General, the Judiciary
14 Committee of the Senate, the Judiciary Committee of the House of
15 Representatives and the Law and Justice Committee of the Senate.

16 (b) Contents.--The Statewide report shall include the
17 following information:

18 (1) Statewide aggregations of information collected
19 under section ~~2144(e)~~ 2133(C) (relating to recordkeeping). <--

20 (2) The total number and percentage of incidents
21 involving the use of force.

22 (3) The total number and percentage of incidents
23 involving the use of force resulting in bodily injury.

24 (4) The total number and percentage of incidents
25 involving the use of force resulting in serious bodily
26 injury.

27 (5) The total number and percentage of incidents
28 involving the use of force resulting in death.

29 ~~(6) A list of agencies that have not notified or~~ <--
30 ~~certified to the commission that the agency has a policy as~~

1 ~~required under section 2143 (relating to written policies~~
2 ~~required).~~

3 (c) Submission of annual report.--The Pennsylvania State
4 Police shall submit the first annual report after the first full
5 calendar year of data collection.

6 Section 3. This act shall take effect in 60 days.