

**SUBSTITUTE FOR
SENATE BILL NO. 1091**

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 law
3 enforcement officer would objectively consider likely to create a
4 substantial risk of death or serious bodily harm.

5 (b) "De-escalation technique" means a range of integrated
6 strategies and tactics used by a law enforcement officer to diffuse
7 a potentially volatile or violent situation with the aim to reduce

1 the immediacy of the threat and level of force required for
2 resolution while ensuring the safety of the law enforcement officer
3 and public.

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

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

10 (e) "Objectively reasonable" means an inquiry as to whether
11 the law enforcement officer's use of force is objectively
12 reasonable in light of the facts and circumstances known to the law
13 enforcement officer, without regard to the law enforcement
14 officer's underlying intent or motivation. For purposes of this
15 definition, the reasonableness of a particular use of force by a
16 law enforcement officer must be judged from the perspective of a
17 reasonable law enforcement officer on the scene, rather than with
18 the 20/20 vision of hindsight, and must take into consideration the
19 fact that law enforcement officers are often forced to make split-
20 second decisions in circumstances that are tense, uncertain, and
21 rapidly evolving. An inquiry must consider the severity of the
22 crime at issue; whether the individual posed an immediate threat to
23 the safety of the law enforcement officer or others; whether the
24 individual was actively resisting arrest or attempting to evade
25 arrest by flight; whether the individual was experiencing a medical
26 emergency that rendered the individual incapable of making a
27 rational decision under circumstances that posed an immediate
28 threat of serious harm to the law enforcement officer or others;
29 whether some degree of force by the law enforcement officer was

1 reasonably necessary to ameliorate the immediate threat; and
2 whether the force used was more than reasonably necessary under the
3 circumstances.

4 (f) "Policy" means the use of force policy adopted by a law
5 enforcement agency under section 2.

6 (g) "Serious bodily harm" means any bodily injury that creates
7 a substantial risk of death, permanent disfigurement, or permanent
8 loss or impairment of any bodily limb or organ.

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

12 (2) The policy required under subsection (1) must be
13 consistent with all applicable federal, state, and local laws and
14 include, at a minimum, all of the following:

15 (a) A requirement that a law enforcement officer may only use
16 physical force that is objectively reasonable.

17 (b) Standards, procedures, and considerations for all of the
18 following:

19 (i) Using physical force on an individual.

20 (ii) Issuing a verbal warning.

21 (iii) Using deadly force on an individual only when the use of
22 deadly force is necessary to protect the law enforcement officer or
23 another individual from an imminent threat of death or serious
24 bodily harm.

25 (iv) Using other alternatives to the use of physical or deadly
26 force and de-escalation techniques.

27 (c) A statement that the intentional use of physical force
28 that continuously restricts air flow to the throat or windpipe of
29 an individual constitutes deadly force if it creates a substantial

1 risk of death or serious bodily harm to that individual.

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

4 Sec. 3. Each law enforcement agency shall do all of the
5 following:

6 (a) Continuously review and, when necessary, update its policy
7 to ensure that its updated policy complies with this act and is
8 consistent with case law precedent.

9 (b) Make its use of force policy publicly available by posting
10 it on the law enforcement agency's website, if available, or
11 posting it at the law enforcement agency's physical location.