

SENATE BILL NO. 1091

November 13, 2024, Introduced by Senators CHANG, SANTANA, MOSS, IRWIN, GEISS, ANTHONY, SHINK, MCMORROW, CAMILLERI and BAYER and referred to the Committee on Civil Rights, 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 law
3 enforcement officer would objectively consider likely to create a
4 substantial risk of death or serious bodily harm.

1 (b) "De-escalation technique" means a range of integrated
2 strategies and tactics used by a law enforcement officer to diffuse
3 a potentially volatile or violent situation with the aim to reduce
4 the immediacy of the threat and level of force required for
5 resolution while ensuring the safety of the law enforcement officer
6 and public.

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

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

1 rational decision under circumstances that posed an immediate
2 threat of serious harm to the law enforcement officer or others;
3 whether some degree of force by the law enforcement officer was
4 reasonably necessary to ameliorate the immediate threat; and
5 whether the force used was more than reasonably necessary under the
6 circumstances.

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

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

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

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

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

20 (b) Standards, procedures, and considerations for all of the
21 following:

22 (i) Using physical force on an individual.

23 (ii) Issuing a verbal warning.

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

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

1 (c) A statement that use of physical force that restricts air
2 or blood flow to the throat or windpipe of an individual
3 constitutes deadly force.

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

6 Sec. 3. Each law enforcement agency shall do all of the
7 following:

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

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