

SENATE BILL NO. 1093

November 13, 2024, Introduced by Senators JOHNSON, CHANG, SANTANA, MOSS, IRWIN, GEISS, ANTHONY, SHINK, MCMORROW and CAMILLERI and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to require law enforcement agencies to regulate failures of law enforcement officers to intervene during the use or attempted use of excessive force; to permit law enforcement officers to report certain wrongful conduct observed by those law enforcement officers; 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. This act may be cited as the "law enforcement officer
2 duty to intervene act".

3 Sec. 2. As used in this act:

1 (a) "Excessive force" means use of force beyond what is
2 objectively reasonably necessary, under the totality of the
3 circumstances, to effectively gain control of a situation to
4 protect the safety of the law enforcement officer or other
5 individuals, or any other use of force that violates the United
6 States Constitution, the state constitution of 1963, a federal or
7 state law, or a reasonable use of force policy of the employing law
8 enforcement agency.

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

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

15 (d) "Objectively reasonable" means an inquiry as to whether
16 the law enforcement officer's use of force is objectively
17 reasonable in light of the facts and circumstances confronting the
18 law enforcement officer, without regard to the law enforcement
19 officer's underlying intent or motivation. For purposes of this
20 definition, the reasonableness of a particular use of force by a
21 law enforcement officer must be judged from the perspective of a
22 reasonable law enforcement officer on the scene, and its calculus
23 must embody an allowance for the fact that law enforcement officers
24 are often forced to make split-second decisions about the amount of
25 force necessary in a particular situation.

26 Sec. 3. (1) Beginning 6 months after the effective date of
27 this act, each law enforcement agency in this state shall adopt a
28 written duty to intervene policy.

29 (2) The policy described in subsection (1) must require, at a

1 minimum, all of the following:

2 (a) That a law enforcement officer acting in the course of the
3 law enforcement officer's duty as a law enforcement officer who is
4 present and visually observes another law enforcement officer
5 engaging in the use of excessive force against an individual shall
6 intervene when in a position and as soon as it is safe and feasible
7 to do so, to end or prevent the use or further use of excessive
8 force.

9 (b) That a law enforcement officer acting in the course of the
10 law enforcement officer's duty as a law enforcement officer who
11 visually observes another law enforcement officer use excessive
12 force shall report those observations and actions to the immediate
13 supervisor of the law enforcement officer who used excessive force
14 immediately or within 72 hours after the date the law enforcement
15 officer observed the use of excessive force by another law
16 enforcement officer, whichever is feasible.

17 (c) That a violation of the law enforcement agency's policy is
18 grounds for disciplinary action against the law enforcement
19 officer, including, but not limited to, dismissal, demotion,
20 suspension, or transfer of the law enforcement officer.

21 (3) Each law enforcement agency in this state shall provide a
22 copy of the policy required under subsection (1) to a law
23 enforcement officer in its employ.

24 (4) This act does not prohibit a law enforcement agency from
25 adopting a policy that exceeds the requirements of this act or adds
26 additional requirements to the policy adopted in accordance with
27 this section.