

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 119  
3 entitled “An act relating to law enforcement training on appropriate use of  
4 force, de-escalation tactics, and cross-cultural awareness” respectfully reports  
5 that it has considered the same and recommends that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

8 Sec. 1. 20 V.S.A. § 2368 is added to read:

9 § 2368. STATEWIDE POLICY; LAW ENFORCEMENT USE OF DEADLY  
10 FORCE

11 (a) Definitions. As used in this section:

12 (1) “Deadly force” means any use of force that creates a substantial risk  
13 of causing death or serious bodily injury, including the discharge of a firearm.

14 (2) “Improper restraint” means the use of any maneuver on a person  
15 that applies pressure to the neck, throat, windpipe, or carotid artery that may  
16 prevent or hinder breathing, reduce intake of air, or impede the flow of blood  
17 or oxygen to the brain.

18 (3) “Imminent threat of death or serious bodily injury” means when,  
19 based on the totality of the circumstances, a reasonable officer in the same  
20 situation would believe that a person has the present ability, opportunity, and  
21 apparent intent to immediately cause death or serious bodily injury to the law

1 enforcement officer or another person. An imminent harm is not merely a fear  
2 of future harm, no matter how great the fear and no matter how great the  
3 likelihood of the harm, but is one that, from appearances, must be instantly  
4 confronted and addressed.

5 (4) “Law enforcement officer” shall have the same meaning as in 20  
6 V.S.A. § 2351a.

7 (5) “Totality of the circumstances” means all facts known to the law  
8 enforcement officer at the time, including the conduct of the officer and the  
9 subject leading up to the use of deadly force.

10 (b) Statewide policy.

11 (1) The authority to use physical force is a serious responsibility that  
12 shall be exercised judiciously and with respect for human rights and dignity  
13 and for the sanctity of every human life. Every person has a right to be free  
14 from excessive use of force by officers acting under authority of the State.

15 (2) Law enforcement officers may use deadly force only when necessary  
16 in defense of human life. In determining whether deadly force is necessary,  
17 officers shall evaluate each situation in light of the particular circumstances of  
18 each case and shall use other available resources and techniques if reasonably  
19 safe and feasible to an objectively reasonable officer.

20 (3) The decision by a law enforcement officer to use force shall be  
21 evaluated carefully and thoroughly, in a manner that reflects the gravity of that

1 authority and the serious consequences of the use of force by law enforcement  
2 officers, in order to ensure that officers use force consistent with law and  
3 agency policies.

4 (4) The decision by a law enforcement officer to use force shall be  
5 evaluated from the perspective of a reasonable officer in the same situation,  
6 based on the totality of the circumstances known to or perceived by the officer  
7 at the time, rather than with the benefit of hindsight, and that the totality of the  
8 circumstances shall account for occasions when officers may be forced to  
9 make quick judgments about using force.

10 (c) Use of deadly force.

11 (1) Any law enforcement officer who has reasonable cause to believe  
12 that the person to be arrested has committed a crime may use objectively  
13 reasonable force to effect the arrest, to prevent escape, or to overcome  
14 resistance.

15 (2) A law enforcement officer is justified in using deadly force upon  
16 another person only when the officer reasonably believes, based on the totality  
17 of the circumstances, that such force is necessary to:

18 (A) defend against an imminent threat of death or serious bodily  
19 injury to the officer or to another person; or

20 (B) apprehend a fleeing person for any felony that threatened or  
21 resulted in death or serious bodily injury if the officer reasonably believes that

1 the person will cause death or serious bodily injury to another unless  
2 immediately apprehended.

3 (3) When feasible, a law enforcement officer shall, prior to the use of  
4 force, make reasonable efforts to identify himself or herself as a law  
5 enforcement officer and to warn that deadly force may be used, unless the  
6 officer has objectively reasonable grounds to believe the person is aware of  
7 those facts.

8 (4) A law enforcement officer shall not use deadly force against a  
9 person based on the danger that person poses to himself or herself, if an  
10 objectively reasonable officer would believe the person does not pose an  
11 imminent threat of death or serious bodily injury to the law enforcement  
12 officer or to another person.

13 (5) A law enforcement officer who makes or attempts to make an arrest  
14 need not retreat or desist from his or her efforts by reason of the resistance or  
15 threatened resistance of the person being arrested. A law enforcement officer  
16 shall not be deemed an aggressor or lose the right to self-defense by the use of  
17 objectively reasonable force in compliance with subdivisions (1) and (2) of this  
18 subsection to effect the arrest or to prevent escape or to overcome resistance.  
19 For the purposes of this subdivision, “retreat” does not mean tactical  
20 repositioning or other de-escalation tactics.



1 receive a minimum of four hours of training on the use of deadly force policy  
2 as required by this subsection.

3 (3) In order to remain certified, law enforcement officers shall receive a  
4 refresher course on the training required by this subsection during every odd-  
5 numbered year in a program approved by the Vermont Criminal Justice  
6 Training Council.

7 (4) The Criminal Justice Training Council shall, on an annual basis,  
8 report to the Racial Disparities in the Criminal and Juvenile Justice System  
9 Advisory Panel regarding:

10 (A) the adoption and implementation of the Panel’s recommended  
11 data collection methods and trainings and policies pursuant to 3 V.S.A.  
12 § 168(f)(2) and (3);

13 (B) the incorporation of implicit bias training into the requirements of  
14 basic training pursuant to this subsection; and

15 (C) the implementation of all trainings as required by this subsection (e).

16 Sec. 3. EFFECTIVE DATES

17 This act shall take effect on October 1, 2020.

18 and that after passage the title of the bill be amended to read: “An act  
19 relating to a statewide use of deadly force policy for law enforcement”  
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21 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Senator \_\_\_\_\_

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FOR THE COMMITTEE