

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.

14 (2) “Prohibited 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 words and conduct of the 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.

8 (5) Any law enforcement officer who has reasonable cause to believe
9 that the person to be arrested has committed a crime may use proportional
10 force if necessary to effect the arrest, to prevent escape, or to overcome
11 resistance.

12 (c) Use of deadly force.

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

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

18 (B) apprehend a fleeing person for any felony that threatened or
19 resulted in death or serious bodily injury if the officer reasonably believes that
20 the person will cause death or serious bodily injury to another unless
21 immediately apprehended.

1 (2) When feasible, a law enforcement officer shall, prior to the use of
2 force, make reasonable efforts to identify himself or herself as a law
3 enforcement officer and to warn that deadly force may be used.

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

9 (4) A law enforcement officer who makes or attempts to make an arrest
10 need not retreat or desist from his or her efforts by reason of the resistance or
11 threatened resistance of the person being arrested. A law enforcement officer
12 shall not be deemed an aggressor or lose the right to self-defense by the use of
13 proportional force if necessary in compliance with subdivision (5) of
14 subsection (b) of this section to effect the arrest or to prevent escape or to
15 overcome resistance. For the purposes of this subdivision, “retreat” does not
16 mean tactical repositioning or other de-escalation tactics.

17 (6) A law enforcement officer shall not use a prohibited restraint on a
18 person for any reason. A law enforcement officer has a duty to intervene when
19 the officer observes another officer using a prohibited restraint on a person.

20 Sec. 2. EFFECTIVE DATE

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

1 and that after passage the title of the bill be amended to read: “An act
2 relating to a statewide use of deadly force policy for law enforcement”

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4 (Committee vote: _____)

5

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Senator _____

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FOR THE COMMITTEE