



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5803

Introduced 11/10/2020, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

720 ILCS 5/7-5
720 ILCS 5/7-6

from Ch. 38, par. 7-5
from Ch. 38, par. 7-6

Amends the Criminal Code of 2012. Provides that a peace officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a peace officer and to warn that deadly force may be used, unless the officer has reasonable grounds to believe the person is aware of those facts. Provides that a peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself, if a reasonable officer would believe that the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person. Provides that the authority to use physical force conferred on peace officers is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. Provides that peace officers shall use deadly force only when necessary in defense of human life. Provides that officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques, if reasonably safe and feasible to a reasonable officer. Provides that the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies. Provides that the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force. Provides that law enforcement agencies are encouraged to adopt and develop policies designed to protect individuals with physical, mental health, developmental, or intellectual disabilities, who are significantly more likely to experience greater levels of physical force during police interactions, as these disabilities may affect the ability of a person to understand or comply with commands from peace officers. Makes other changes. Effective immediately.

LRB101 21583 HEP 72510 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 7-5 and 7-6 as follows:

6 (720 ILCS 5/7-5) (from Ch. 38, par. 7-5)

7 Sec. 7-5. Peace officer's use of force in making arrest.

8 (a) A peace officer, or any person whom he has summoned or
9 directed to assist him, need not retreat or desist from efforts
10 to make a lawful arrest because of resistance or threatened
11 resistance to the arrest. He is justified in the use of any
12 force which he reasonably believes, based on the totality of
13 the circumstances, to be necessary to effect the arrest and of
14 any force which he reasonably believes, based on the totality
15 of the circumstances, to be necessary to defend himself or
16 another from bodily harm while making the arrest. However, he
17 is justified in using force likely to cause death or great
18 bodily harm only when he reasonably believes, based on the
19 totality of the circumstances, that such force is necessary to
20 prevent death or great bodily harm to himself or such other
21 person, or when he reasonably believes, based on the totality
22 of the circumstances, both that:

23 (1) Such force is necessary to prevent the arrest from

1 being defeated by resistance or escape; and

2 (2) The person to be arrested has committed or
3 attempted a forcible felony which involves the infliction
4 or threatened infliction of great bodily harm or is
5 attempting to escape by use of a deadly weapon, or
6 otherwise indicates that he will endanger human life or
7 inflict great bodily harm unless arrested without delay.

8 As used in this subsection, "retreat" does not mean
9 tactical repositioning or other de-escalation tactics.

10 (a-5) Where feasible, a peace officer shall, prior to the
11 use of force, make reasonable efforts to identify himself or
12 herself as a peace officer and to warn that deadly force may be
13 used, unless the officer has reasonable grounds to believe that
14 the person is aware of those facts.

15 (a-10) A peace officer shall not use deadly force against a
16 person based on the danger that the person poses to himself or
17 herself if an reasonable officer would believe the person does
18 not pose an imminent threat of death or serious bodily injury
19 to the peace officer or to another person.

20 (b) A peace officer making an arrest pursuant to an invalid
21 warrant is justified in the use of any force which he would be
22 justified in using if the warrant were valid, unless he knows
23 that the warrant is invalid.

24 (c) The authority to use physical force conferred on peace
25 officers by this Article is a serious responsibility that shall
26 be exercised judiciously and with respect for human rights and

1 dignity and for the sanctity of every human life.

2 (d) Peace officers shall use deadly force only when
3 reasonably necessary in defense of human life. In determining
4 whether deadly force is reasonably necessary, officers shall
5 evaluate each situation in light of the particular
6 circumstances of each case and shall use other available
7 resources and techniques, if reasonably safe and feasible to a
8 reasonable officer.

9 (e) The decision by a peace officer to use force shall be
10 evaluated carefully and thoroughly, in a manner that reflects
11 the gravity of that authority and the serious consequences of
12 the use of force by peace officers, in order to ensure that
13 officers use force consistent with law and agency policies.

14 (f) The decision by a peace officer to use force shall be
15 evaluated from the perspective of a reasonable officer in the
16 same situation, based on the totality of the circumstances
17 known to or perceived by the officer at the time of the
18 decision, rather than with the benefit of hindsight, and that
19 the totality of the circumstances shall account for occasions
20 when officers may be forced to make quick judgments about using
21 force.

22 (g) Law enforcement agencies are encouraged to adopt and
23 develop policies designed to protect individuals with
24 physical, mental health, developmental, or intellectual
25 disabilities, who are significantly more likely to experience
26 greater levels of physical force during police interactions, as

1 these disabilities may affect the ability of a person to
2 understand or comply with commands from peace officers.

3 (h) As used in this Section:

4 (1) "Deadly force" means any use of force that creates
5 a substantial risk of causing death or serious bodily
6 injury, including, but not limited to, the discharge of a
7 firearm.

8 (2) A threat of death or serious bodily injury is
9 "imminent" when, based on the totality of the
10 circumstances, a reasonable officer in the same situation
11 would believe that a person has the present ability,
12 opportunity, and apparent intent to immediately cause
13 death or serious bodily injury to the peace officer or
14 another person. An imminent harm is not merely a fear of
15 future harm, no matter how great the fear and no matter how
16 great the likelihood of the harm, but is one that, from
17 appearances, must be instantly confronted and addressed.

18 (3) "Totality of the circumstances" means all facts
19 known to the peace officer at the time, or that would be
20 known to a reasonable officer in the same situation,
21 including the conduct of the officer and the subject
22 leading up to the use of deadly force.

23 (Source: P.A. 84-1426.)

24 (720 ILCS 5/7-6) (from Ch. 38, par. 7-6)

25 Sec. 7-6. Private person's use of force in making arrest.

1 (a) A private person who makes, or assists another private
2 person in making a lawful arrest is justified in the use of any
3 force which he would be justified in using if he were summoned
4 or directed by a peace officer to make such arrest, except that
5 he is justified in the use of force likely to cause death or
6 great bodily harm only to the extent a peace officer is
7 permitted to use force under Section 7-5 ~~when he reasonably~~
8 ~~believes that such force is necessary to prevent death or great~~
9 ~~bodily harm to himself or another.~~

10 (b) A private person who is summoned or directed by a peace
11 officer to assist in making an arrest which is unlawful, is
12 justified in the use of any force which he would be justified
13 in using if the arrest were lawful, unless he knows that the
14 arrest is unlawful.

15 (Source: Laws 1961, p. 1983.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.