



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0161

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
225 ILCS 447/40-10

Creates the Peace Officer and Private Security Contractor Chokehold Prohibition Act. Provides that a peace officer, private security contractor, or registered employee of a private security contractor agency may not apply a chokehold in the performance of his or her duties, unless faced with a situation in which the use of deadly force is justified under the Justifiable Use of Force; Exoneration Article of the Criminal Code of 2012. Provides that a peace officer who applies a chokehold in violation of the Act shall be discharged from his or her employment with the law enforcement agency that employed the peace officer. Provides that the Department of Financial and Professional Regulation shall revoke the license of a private security contractor who applies a chokehold in violation of the Act. Provides that the Department of Financial and Professional Regulation shall revoke the permanent employee registration card of a registered employee of a private security contractor agency who applies a chokehold in violation of the Act. Provides that any person injured, or the next of kin of a person killed, by a peace officer, private security contractor, or registered employee of a private security contractor agency from applying a chokehold in violation of the Act shall be entitled to: (1) all actual damages against the peace officer, private security contractor, or registered employee of a private security contractor agency for applying a chokehold in violation of the Act or his or her employer, or both; and (2) any punitive damages which may be awarded by the court or by a jury. Provides that the action must be brought within 2 years after the discovery of the injury or death resulting from a violation of the Act. Defines "chokehold". Amends the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 to make conforming changes. Effective immediately.

LRB099 03687 MRW 23888 b

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 1. Short title. This Act may be cited as the Peace
5 Officer and Private Security Contractor Chokehold Prohibition
6 Act.

7 Section 5. Definitions. In this Act:

8 "Chokehold" means a method by which a person holds another
9 person by putting his or her arm around the other person's neck
10 with sufficient pressure to make breathing difficult or
11 impossible and includes, but is not limited to, any pressure to
12 the throat or windpipe, which may prevent or hinder breathing
13 or reduce intake of air.

14 "Peace officer" has the meaning ascribed to it in Section
15 2-13 of the Criminal Code of 2012.

16 "Private security contractor", "private security
17 contractor agency", and "registered employee of a private
18 security contractor agency" have the meanings ascribed to them
19 in the Private Detective, Private Alarm, Private Security,
20 Fingerprint Vendor, and Locksmith Act of 2004.

21 Section 10. Chokeholds prohibited. A peace officer,
22 private security contractor, or registered employee of a

1 private security contractor agency may not apply a chokehold in
2 the performance of his or her duties, unless faced with a
3 situation in which the use of deadly force is justified under
4 Article 7 of the Criminal Code of 2012.

5 Section 15. Termination of employment of peace officer;
6 revocation of private security contractor license; and
7 revocation of permanent employee registration card of a
8 registered employee of a private security contractor agency.

9 (a) A peace officer who applies a chokehold in violation of
10 this Act shall be discharged from his or her employment with
11 the law enforcement agency that employed the peace officer.

12 (b) The Department of Financial and Professional
13 Regulation shall revoke the license of a private security
14 contractor who applies a chokehold in violation of this Act.
15 The Department of Financial and Professional Regulation shall
16 revoke the permanent employee registration card of a registered
17 employee of a private security contractor agency who applies a
18 chokehold in violation of this Act.

19 Section 20. Civil remedies.

20 (a) Any person injured, or the next of kin of a person
21 killed, by a peace officer, private security contractor, or
22 registered employee of a private security contractor agency
23 from applying a chokehold in violation of this Act shall be
24 entitled to the following remedies:

1 (1) to all actual damages against the peace officer,
2 private security contractor, or registered employee of a
3 private security contractor agency for applying a
4 chokehold in violation of this Act or his or her employer,
5 or both; and

6 (2) to any punitive damages which may be awarded by the
7 court or by a jury.

8 (b) The action must be brought within 2 years after
9 discovery of the injury or death resulting from a violation of
10 this Act.

11 Section 105. The Private Detective, Private Alarm, Private
12 Security, Fingerprint Vendor, and Locksmith Act of 2004 is
13 amended by changing Section 40-10 as follows:

14 (225 ILCS 447/40-10)

15 (Section scheduled to be repealed on January 1, 2024)

16 Sec. 40-10. Disciplinary sanctions.

17 (a) The Department may deny issuance, refuse to renew, or
18 restore or may reprimand, place on probation, suspend, revoke,
19 or take other disciplinary or non-disciplinary action against
20 any license, registration, permanent employee registration
21 card, canine handler authorization card, canine trainer
22 authorization card, or firearm control card, may impose a fine
23 not to exceed \$10,000 for each violation, and may assess costs
24 as provided for under Section 45-60, for any of the following:

1 (1) Fraud, deception, or misrepresentation in
2 obtaining or renewing of a license or registration.

3 (2) Professional incompetence as manifested by poor
4 standards of service.

5 (3) Engaging in dishonorable, unethical, or
6 unprofessional conduct of a character likely to deceive,
7 defraud, or harm the public.

8 (4) Conviction by plea of guilty or nolo contendere,
9 finding of guilt, jury verdict, or entry of judgment or by
10 sentencing of any crime including, but not limited to,
11 convictions, preceding sentences of supervision,
12 conditional discharge, or first offender probation, under
13 the laws of any jurisdiction of the United States that is
14 (i) a felony in a federal court; or (ii) a misdemeanor, an
15 essential element of which is dishonesty, or that is
16 directly related to the practice of the profession.

17 (5) Performing any services in a grossly negligent
18 manner or permitting any of a licensee's employees to
19 perform services in a grossly negligent manner, regardless
20 of whether actual damage to the public is established.

21 (6) Continued practice, although the person has become
22 unfit to practice due to any of the following:

23 (A) Physical illness, mental illness, or other
24 impairment, including, but not limited to,
25 deterioration through the aging process or loss of
26 motor skills that results in the inability to serve the

1 public with reasonable judgment, skill, or safety.

2 (B) (Blank).

3 (C) Habitual or excessive use or abuse of drugs
4 defined in law as controlled substances, alcohol, or
5 any other substance that results in the inability to
6 practice with reasonable judgment, skill, or safety.

7 (7) Receiving, directly or indirectly, compensation
8 for any services not rendered.

9 (8) Willfully deceiving or defrauding the public on a
10 material matter.

11 (9) Failing to account for or remit any moneys or
12 documents coming into the licensee's possession that
13 belong to another person or entity.

14 (10) Discipline by another United States jurisdiction,
15 foreign nation, or governmental agency, if at least one of
16 the grounds for the discipline is the same or substantially
17 equivalent to those set forth in this Act.

18 (11) Giving differential treatment to a person that is
19 to that person's detriment because of race, color, creed,
20 sex, religion, or national origin.

21 (12) Engaging in false or misleading advertising.

22 (13) Aiding, assisting, or willingly permitting
23 another person to violate this Act or rules promulgated
24 under it.

25 (14) Performing and charging for services without
26 authorization to do so from the person or entity serviced.

1 (15) Directly or indirectly offering or accepting any
2 benefit to or from any employee, agent, or fiduciary
3 without the consent of the latter's employer or principal
4 with intent to or the understanding that this action will
5 influence his or her conduct in relation to his or her
6 employer's or principal's affairs.

7 (16) Violation of any disciplinary order imposed on a
8 licensee by the Department.

9 (17) Performing any act or practice that is a violation
10 of this Act or the rules for the administration of this
11 Act, or having a conviction or administrative finding of
12 guilty as a result of violating any federal or State laws,
13 rules, or regulations that apply exclusively to the
14 practices of private detectives, private alarm
15 contractors, private security contractors, fingerprint
16 vendors, or locksmiths.

17 (18) Conducting an agency without a valid license.

18 (19) Revealing confidential information, except as
19 required by law, including but not limited to information
20 available under Section 2-123 of the Illinois Vehicle Code.

21 (20) Failing to make available to the Department, upon
22 request, any books, records, or forms required by this Act.

23 (21) Failing, within 30 days, to respond to a written
24 request for information from the Department.

25 (22) Failing to provide employment information or
26 experience information required by the Department

1 regarding an applicant for licensure.

2 (23) Failing to make available to the Department at the
3 time of the request any indicia of licensure or
4 registration issued under this Act.

5 (24) Purporting to be a licensee-in-charge of an agency
6 without active participation in the agency.

7 (25) A finding by the Department that the licensee,
8 after having his or her license placed on probationary
9 status, has violated the terms of probation.

10 (26) Violating subsection (f) of Section 30-30.

11 (27) A firearm control card holder having more firearms
12 in his or her immediate possession than he or she can
13 reasonably exercise control over.

14 (28) Failure to report in writing to the Department,
15 within 60 days of an entry of a settlement or a verdict in
16 excess of \$10,000, any legal action in which the quality of
17 the licensee's or registrant's professional services was
18 the subject of the legal action.

19 (a-5) The Department of Financial and Professional
20 Regulation shall revoke the license of a private security
21 contractor who applies a chokehold in violation of the Peace
22 Officer and Private Security Contractor Chokehold Prohibition
23 Act. The Department of Financial and Professional Regulation
24 shall revoke the permanent employee registration card of a
25 registered employee of a private security contractor agency who
26 applies a chokehold in violation of the Peace Officer and

1 Private Security Contractor Chokehold Prohibition Act.

2 (b) All fines imposed under this Section shall be paid
3 within 60 days after the effective date of the order imposing
4 the fine.

5 (c) The Department shall adopt rules that set forth
6 standards of service for the following: (i) acceptable error
7 rate in the transmission of fingerprint images and other data
8 to the Department of State Police; (ii) acceptable error rate
9 in the collection and documentation of information used to
10 generate fingerprint work orders; and (iii) any other standard
11 of service that affects fingerprinting services as determined
12 by the Department.

13 The determination by a circuit court that a licensee is
14 subject to involuntary admission or judicial admission, as
15 provided in the Mental Health and Developmental Disabilities
16 Code, operates as an automatic suspension. The suspension will
17 end only upon a finding by a court that the patient is no
18 longer subject to involuntary admission or judicial admission
19 and the issuance of an order so finding and discharging the
20 patient.

21 (Source: P.A. 98-253, eff. 8-9-13.)

22 Section 999. Effective date. This Act takes effect upon
23 becoming law.