

SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 227

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING FOR THE INSPECTION OF  
LAW ENFORCEMENT MISCONDUCT INVESTIGATIONS; REQUIRING REPORTING  
OF OFFICER-INVOLVED INJURIES OR DEATHS; AMENDING THE CRIME OF  
JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER OR PUBLIC EMPLOYEE;  
ENACTING THE LAW ENFORCEMENT OFFICER PROCEDURES ACT; REGULATING  
THE USE OF PHYSICAL FORCE BY OFFICERS; ESTABLISHING A DUTY OF  
OFFICERS TO INTERVENE; REQUIRING USE OF FORCE POLICIES;  
PRESCRIBING STANDARDS FOR SERVING SEARCH WARRANTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-2-1 NMSA 1978 (being Laws 1947,  
Chapter 130, Section 1, as amended) is amended to read:

"14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--  
Every person has a right to inspect public records of this  
state except:

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1           A. records pertaining to physical or mental  
2 examinations and medical treatment of persons confined to an  
3 institution;

4           B. letters of reference concerning employment,  
5 licensing or permits;

6           C. letters or memoranda that are matters of opinion  
7 in personnel files or students' cumulative files; provided that  
8 records describing the disposition of law enforcement  
9 misconduct investigations shall not be exempt from inspection;

10          D. portions of law enforcement records that reveal:

11                 (1) confidential sources, methods or  
12 information; or

13                 (2) before charges are filed, names, address,  
14 contact information or protected personal identifier  
15 information [~~as defined in this act~~] of individuals who are:

16                         (a) accused but not charged with a  
17 crime; or

18                         (b) victims of or non-law-enforcement  
19 witnesses to an alleged crime of: 1) assault with intent to  
20 commit a violent felony pursuant to Section 30-3-3 NMSA 1978  
21 when the violent felony is criminal sexual penetration; 2)  
22 assault against a household member with intent to commit a  
23 violent felony pursuant to Section 30-3-14 NMSA 1978 when the  
24 violent felony is criminal sexual penetration; 3) stalking  
25 pursuant to Section 30-3A-3 NMSA 1978; 4) aggravated stalking

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1 pursuant to Section 30-3A-3.1 NMSA 1978; 5) criminal sexual  
 2 penetration pursuant to Section 30-9-11 NMSA 1978; or 6)  
 3 criminal sexual contact pursuant to Section 30-9-12 NMSA 1978.

4 Law enforcement records include evidence in any form  
 5 received or compiled in connection with a criminal  
 6 investigation or prosecution by a law enforcement or  
 7 prosecuting agency, including inactive matters or closed  
 8 investigations to the extent that they contain the information  
 9 listed in this subsection; provided that the presence of such  
 10 information on a law enforcement record does not exempt the  
 11 record from inspection;

12 E. as provided by the Confidential Materials Act;

13 F. trade secrets, attorney-client privileged  
 14 information and long-range or strategic business plans of  
 15 public hospitals discussed in a properly closed meeting;

16 G. tactical response plans or procedures prepared  
 17 for or by the state or a political subdivision of the state,  
 18 the publication of which could reveal specific vulnerabilities,  
 19 risk assessments or tactical emergency security procedures that  
 20 could be used to facilitate the planning or execution of a  
 21 terrorist attack; and

22 H. as otherwise provided by law."

23 SECTION 2. A new section of the Department of Public  
 24 Safety Act is enacted to read:

25 "[NEW MATERIAL] REPORTING OFFICER-INVOLVED INJURIES OR

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1 DEATHS--PROSCRIBING PENALTIES.--

2 A. The secretary shall create a uniform protocol  
3 for a law enforcement agency to report officer-involved  
4 injuries or deaths. The uniform protocol shall require a  
5 report of the following information regarding each incident:

- 6 (1) the reporting law enforcement agency;  
7 (2) the date of the incident;  
8 (3) the location of the incident;  
9 (4) the age, sex, race and ethnicity of each  
10 officer involved;  
11 (5) the age, sex, race and ethnicity of each  
12 injured or deceased person involved, if known; and, if unknown,  
13 a description of the inquiry undertaken to ascertain that  
14 information;  
15 (6) whether the person was injured, received  
16 emergency medical care, was hospitalized or died as a result of  
17 the incident;  
18 (7) a description of the injuries sustained by  
19 each injured person;  
20 (8) whether and in what manner each injured or  
21 deceased person used, exhibited or possessed a deadly weapon  
22 during the incident;  
23 (9) whether each injured or deceased person  
24 exhibited signs or symptoms of mental illness or impairment at  
25 the time of the incident;

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1 (10) the reason for the use of force by  
2 officers;

3 (11) whether the reporting law enforcement  
4 agency determined the use of force was justified;

5 (12) whether an officer involved attempted to  
6 call medical or mental health professionals to the scene during  
7 the incident;

8 (13) whether each officer involved was on duty  
9 during the incident;

10 (14) whether each officer involved was in  
11 uniform during the incident;

12 (15) a description of the physical force used  
13 by each officer during the incident;

14 (16) a description of the de-escalation  
15 tactics and techniques used by each officer involved during the  
16 incident;

17 (17) for each officer present, a description  
18 of all attempts to intervene to prevent the use of unreasonable  
19 physical force during the incident; and

20 (18) whether the incident occurred during or  
21 as a result of:

22 (a) an emergency call or request for  
23 assistance and a description of the facts and circumstances;

24 (b) the execution of a warrant or other  
25 enforcement action; or

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1 (c) a hostage-taking, barricade or other  
2 emergency situation.

3 B. Not later than thirty days after an officer-  
4 involved injury or death, the law enforcement agency employing  
5 the officer involved in the incident shall complete and submit  
6 to the secretary a report using the uniform protocol. If the  
7 agency maintains a website, the agency shall post the report  
8 online upon submission to the secretary. Not later than five  
9 days after receiving a report, the secretary shall post the  
10 report on the department's website. If no officer-involved  
11 injuries or deaths have occurred during a quarterly period, the  
12 agency shall submit a no incident report to the secretary in a  
13 manner prescribed by the secretary. The quarterly periods for  
14 no incident reports pursuant to this subsection shall be:

- 15 (1) January 1 to March 31;  
16 (2) April 1 to June 30;  
17 (3) July 1 to September 30; and  
18 (4) October 1 to December 31.

19 C. A law enforcement agency that fails to comply  
20 with Subsection B of this section shall be ineligible to apply  
21 for grants administered by any state agency. The secretary  
22 shall afford the law enforcement agency an opportunity to  
23 contest a finding that the agency did not comply with  
24 Subsection B of this section.

25 D. The secretary shall prepare an annual report

1 regarding all officer-involved injuries or deaths that occurred  
 2 during the preceding fiscal year. The report shall include:

- 3 (1) the total number of officer-involved  
 4 injuries or deaths;
- 5 (2) the number of officer-involved injuries or  
 6 deaths reported by each law enforcement agency;
- 7 (3) the entirety of data reported using the  
 8 uniform protocol; and
- 9 (4) any operational, policy, regulatory or  
 10 legislative recommendations to reduce the number and  
 11 seriousness of officer-involved injuries or deaths.

12 E. On or before September 30 of each year, the  
 13 secretary shall submit the report to the governor, the speaker  
 14 of the house of representatives, the president pro tempore of  
 15 the senate and the appropriate legislative interim committee  
 16 dealing with courts, corrections and justice. On or before  
 17 September 30 of each year, the secretary shall post the report  
 18 on the department's website.

19 F. As used in this section:

20 (1) "chokehold" means the use of the lateral  
 21 vascular neck restraint, carotid restraint, chokehold, neck  
 22 hold or any other action that involves placing any part of an  
 23 officer's body on or around a person's neck;

24 (2) "deadly weapon" means a firearm or any  
 25 object manifestly designed, made or adapted for the purpose of

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1 inflicting death or serious bodily injury or any object that,  
2 in the manner of its use, is capable of causing death or  
3 serious bodily injury;

4 (3) "de-escalation tactics and techniques"  
5 means proactive actions and approaches used by a law  
6 enforcement officer to stabilize a law enforcement situation so  
7 that more time, options and resources are available to gain a  
8 person's voluntary compliance and to reduce or eliminate the  
9 need to use force, including verbal persuasion, warnings,  
10 slowing down the pace of an incident, waiting out a person,  
11 creating distance between the law enforcement officer and a  
12 threat and requesting additional resources to resolve the  
13 incident, including but not limited to calling in medical or  
14 mental health professionals to address a potential medical or  
15 mental health crisis;

16 (4) "firearm" means any weapon that will or is  
17 designed to or may readily be converted to expel a projectile  
18 by the action of an explosion or the frame or receiver of any  
19 such weapon;

20 (5) "law enforcement agency" means the police  
21 department of a municipality, the sheriff's office of a county,  
22 the police department of a university, the New Mexico state  
23 police or the department;

24 (6) "law enforcement officer" means a full-  
25 time state or municipal police officer, county sheriff, deputy



1 sheriff, conservation officer, motor transportation enforcement  
2 officer or other state employee authorized by state law to  
3 enforce criminal statutes;

4 (7) "officer-involved injury or death" means  
5 an event during which a law enforcement officer:

6 (a) discharges a firearm, actually or  
7 proximately causing injury or death to another;

8 (b) discharges a stun gun, actually or  
9 proximately causing injury or death to another;

10 (c) uses a chokehold, discharges tear  
11 gas or other chemical weapon, discharges rubber pellets or  
12 bullets from a propulsion device or attacks a person using a  
13 dog, actually or proximately causing injury or death of a  
14 person; or

15 (d) engages in a physical altercation  
16 with a member of the public who sustains serious bodily injury  
17 or requests or receives medical care as a result;

18 (8) "serious bodily injury" means bodily  
19 injury that results in:

20 (a) permanent disfigurement;

21 (b) protracted loss or impairment of a  
22 bodily function, limb or organ; or

23 (c) a substantial risk of death; and

24 (9) "stun gun" means a portable device or  
25 weapon, regardless of whether it passes an electrical shock by

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1 means of a dart or projectile via a wire lead, from which an  
2 electrical current, impulse, wave or beam that is designed to  
3 incapacitate temporarily, injure or kill may be directed."

4 SECTION 3. Section 30-2-6 NMSA 1978 (being Laws 1963,  
5 Chapter 303, Section 2-7, as amended) is amended to read:

6 "30-2-6. JUSTIFIABLE HOMICIDE BY PUBLIC OFFICER OR PUBLIC  
7 EMPLOYEE.--

8 A. Homicide is justifiable when committed by a  
9 public officer or public employee or those acting by their  
10 command and in their aid and assistance:

11 (1) in obedience to any judgment of a  
12 competent court;

13 (2) when necessarily committed in overcoming  
14 actual resistance to the execution of some legal process or to  
15 the discharge of any other legal duty;

16 (3) when necessarily committed in retaking  
17 felons who have been rescued or who have escaped or when  
18 necessarily committed in arresting felons fleeing from justice;  
19 or

20 (4) when necessarily committed in order to  
21 prevent the escape of a felon from any place of lawful custody  
22 or confinement.

23 B. ~~[For the purposes of this section, homicide is~~  
24 ~~"necessarily committed" when a public officer or public~~  
25 ~~employee has probable cause to believe he or another is~~

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1 ~~threatened with serious harm or deadly force while performing~~  
 2 ~~those lawful duties described in this section. Whenever~~  
 3 ~~feasible, a public officer or employee should give warning~~  
 4 ~~prior to using deadly force.] Homicide is "necessarily  
 5 committed" only if a public officer or public employee complied  
 6 with the provisions of Section 6 of this 2021 act."~~

7 SECTION 4. [NEW MATERIAL] SHORT TITLE.--Sections 4  
 8 through 9 of this act may be cited as the "Law Enforcement  
 9 Officer Procedures Act".

10 SECTION 5. [NEW MATERIAL] DEFINITIONS.--As used in the  
 11 Law Enforcement Officer Procedures Act:

12 A. "chokehold" means the use of the lateral  
 13 vascular neck restraint, carotid restraint, chokehold, neck  
 14 hold or any other action that involves placing any part of a  
 15 law enforcement officer's body on or around a person's neck;

16 B. "deadly physical force" means physical force  
 17 that can be reasonably expected to cause death or serious  
 18 physical injury;

19 C. "de-escalation tactics and techniques" means  
 20 proactive actions and approaches used by a law enforcement  
 21 officer to stabilize a law enforcement situation so that more  
 22 time, options and resources are available to gain a person's  
 23 voluntary compliance and to reduce or eliminate the need to use  
 24 force, including verbal persuasion, warnings, slowing down the  
 25 pace of an incident, waiting out a person, creating distance

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1 between the law enforcement officer and a threat and requesting  
2 additional resources to resolve the incident, including but not  
3 limited to calling in medical or mental health professionals to  
4 address a potential medical or mental health crisis;

5 D. "firearm" means any weapon that will or is  
6 designed to or may readily be converted to expel a projectile  
7 by the action of an explosion or the frame or receiver of any  
8 such weapon;

9 E. "imminent harm" means when a person creating a  
10 risk has the present ability, opportunity and apparent intent  
11 to immediately cause serious physical injury or death; provided  
12 that imminent harm shall not be merely a fear of future harm  
13 but is a risk that, based on the information available at the  
14 time, must be instantly confronted and addressed;

15 F. "law enforcement agency" means the police  
16 department of a municipality, the sheriff's office of a county,  
17 the New Mexico state police or the department of public safety;

18 G. "law enforcement objective" means:

19 (1) a lawful arrest or detention of a person;  
20 (2) the prevention or termination of the  
21 commission of a crime;

22 (3) the intervention in an attempted suicide  
23 or self-inflicted injury;

24 (4) the enforcement of a valid certificate of  
25 evaluation;

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1 (5) the defense of a law enforcement officer  
2 or person from the physical acts of another individual; or

3 (6) a lawful search when an individual is  
4 actively resisting;

5 H. "law enforcement officer" means a full-time  
6 state or municipal police officer, county sheriff, deputy  
7 sheriff, conservation officer, motor transportation enforcement  
8 officer or other state employee authorized by state law to  
9 enforce criminal statutes;

10 I. "necessary" means when, after all available  
11 alternatives have been exhausted, no available, effective  
12 alternative was known or should have been known to a reasonable  
13 person in the circumstances, without regard to the subjective  
14 beliefs of the law enforcement officer;

15 J. "proportional" means not excessive in relation  
16 to a direct and legitimate law enforcement objective;

17 K. "stun gun" means a portable device or weapon,  
18 regardless of whether it passes an electrical shock by means of  
19 a dart or projectile via a wire lead, from which an electrical  
20 current, impulse, wave or beam that is designed to incapacitate  
21 temporarily, injure or kill may be directed; and

22 L. "totality of the circumstances" means the entire  
23 duration of an interaction between law enforcement officers and  
24 a victim of force, from the first contact through the  
25 conclusion of the incident, including consideration of

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1 contextual factors the law enforcement officer knew or should  
2 have known during such interaction, including:

3 (1) whether the law enforcement officer's  
4 conduct during the interaction contributed to the risk of  
5 imminent harm to an identifiable person by the victim of force;

6 (2) whether the law enforcement officer  
7 attempted reasonable and available de-escalation tactics and  
8 techniques during the interaction;

9 (3) whether the law enforcement officer failed  
10 to identify as a law enforcement officer to the victim of  
11 force;

12 (4) whether an arrest could have been effected  
13 at a later time with a lower risk to the safety of the public  
14 or to the victim of force;

15 (5) whether the law enforcement officer made  
16 reasonable accommodations in light of the victim of force's  
17 physical disability, mental illness, developmental or  
18 neurological condition or disability, drug interactions,  
19 linguistic limitations, then-existing mental, emotional or  
20 physical condition or other characteristics that may have  
21 interfered with the victim of force's ability to cooperate or  
22 comply with a law enforcement officer's instructions;

23 (6) whether the law enforcement officer failed  
24 to call in a medical or mental health professional in response  
25 to a potential medical or mental health crises;

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1 (7) whether the law enforcement officer gave  
2 any warnings to the victim of force before undertaking a use of  
3 force or other escalation; and

4 (8) whether the law enforcement officer  
5 exacerbated the injury sustained by the victim of force by  
6 subsequent actions."

7 SECTION 6. [NEW MATERIAL] REGULATION OF PHYSICAL FORCE BY  
8 LAW ENFORCEMENT OFFICERS.--

9 A. All persons in New Mexico shall have a right  
10 against the use of force prohibited by this section.

11 B. A law enforcement officer shall not use physical  
12 force upon another person unless the officer has exhausted  
13 reasonable and available de-escalation tactics and techniques  
14 and, based on the totality of the circumstances, such force is  
15 proportionate and necessary to:

16 (1) prevent an imminent threat to an  
17 identifiable person, where the amount of force used is  
18 proportional to the threat of imminent harm to the identifiable  
19 person;

20 (2) effect an arrest of a person whom the law  
21 enforcement officer has probable cause to believe has committed  
22 a criminal offense; or

23 (3) prevent the escape from custody of a  
24 person whom the law enforcement officer has probable cause to  
25 believe has committed an offense, unless the law enforcement

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1 officer knows that the custody is unauthorized.

2 C. Law enforcement officers shall use physical  
3 force only to the extent the use of force accomplishes a  
4 legitimate law enforcement objective. A law enforcement  
5 officer shall immediately modulate the use of physical force as  
6 the threat diminishes and shall cease the use of physical force  
7 as soon as possible after:

8 (1) the person upon whom the physical force is  
9 being used:

10 (a) is under the officer's control; or

11 (b) no longer poses a threat of physical  
12 injury to the officer or another person; or

13 (2) the use of physical force will no longer  
14 accomplish, or is no longer reasonable and proportional to  
15 accomplish, a legitimate law enforcement objective.

16 D. A law enforcement officer shall not use deadly  
17 physical force upon another person unless it is used as a last  
18 resort, after the officer has exhausted reasonable and  
19 available de-escalation tactics and techniques and, based on  
20 the totality of the circumstances, such force is necessary to  
21 prevent imminent death or serious physical injury to an  
22 identifiable person and the amount of force used is  
23 proportional to the threat of imminent harm to an identifiable  
24 person. The use of deadly force shall not present a threat of  
25 serious physical injury to a third person.

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1 E. The use of deadly force against a person who  
 2 poses a danger only to the person's self is not justified.

3 F. Each application of force shall be evaluated  
 4 independently as a separate use of force to be separately  
 5 justified as lawful pursuant to the provisions of this section.

6 A law enforcement officer's failure to use feasible  
 7 alternatives to the use of force shall be a consideration in  
 8 determining whether the use of force was justified.

9 G. A law enforcement officer shall not discharge  
 10 any firearm into or at a fleeing motor vehicle, unless, based  
 11 on the totality of the circumstances and after exhausting  
 12 reasonable and available de-escalation tactics and techniques,  
 13 such discharge is necessary to prevent an imminent death or  
 14 serious physical injury to an identifiable person and the  
 15 discharge is proportional to the threat of imminent harm to an  
 16 identifiable person. For purposes of this subsection, use of  
 17 the vehicle itself shall not be imminent harm.

18 H. A law enforcement officer shall not  
 19 intentionally position the officer's body or vehicle in front  
 20 of a fleeing motor vehicle, unless such action is a tactic  
 21 approved by the law enforcement agency that employs the  
 22 officer. A law enforcement officer moving into or remaining in  
 23 the path of a moving vehicle, whether deliberate or  
 24 inadvertent, shall not be justification for discharging a  
 25 firearm at the vehicle or any of its occupants or any other use

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1 of physical or deadly physical force. A law enforcement  
2 officer in the path of an approaching vehicle shall attempt to  
3 move to a position of safety rather than discharge a firearm at  
4 the vehicle or any of the occupants of the vehicle.

5 I. A law enforcement officer shall not use a  
6 chokehold.

7 J. Notwithstanding the standards described above in  
8 Subsections B through I of this section, an otherwise lawful  
9 use of force shall be unlawful if it is motivated in  
10 substantial part by anger, malice, retaliation or any other  
11 intent unrelated to law enforcement.

12 K. If a law enforcement officer used physical force  
13 in violation of this section, the law enforcement officer shall  
14 be immediately disciplined and, depending on the seriousness of  
15 the violation, may be decommissioned and terminated from the  
16 officer's position as provided by law. Upon a finding by a  
17 court, the secretary of public safety or the head of any law  
18 enforcement agency that a law enforcement officer used physical  
19 force, including deadly physical force, in violation of this  
20 section, which resulted in serious bodily injury or death, or  
21 that the law enforcement officer violated Subsection I of this  
22 section, the law enforcement officer shall be immediately  
23 decommissioned, terminated from the officer's position and  
24 disqualified from future employment as a law enforcement  
25 officer in New Mexico.

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1           L. To the extent an employment contract conflicts  
 2 with the provisions of this section, the contract shall be  
 3 amended at the earliest available opportunity to conform with  
 4 this section.

5           M. A law enforcement officer who uses force against  
 6 a person in a manner inconsistent with the provisions of this  
 7 section that does not result in death may be charged with  
 8 battery or aggravated battery pursuant to the provisions of  
 9 Sections 30-3-4 and 30-3-5 NMSA 1978.

10           N. A law enforcement officer who uses force against  
 11 a person in a manner inconsistent with the provisions of this  
 12 section that results in death may be charged with manslaughter  
 13 or murder pursuant to the provisions of Chapter 30, Article 2  
 14 NMSA 1978.

15           SECTION 7. [NEW MATERIAL] DUTY TO INTERVENE.--

16           A. A law enforcement officer present and observing  
 17 another law enforcement officer using physical force, including  
 18 deadly physical force, that appears to be beyond that which is  
 19 lawful based on the totality of the circumstances shall  
 20 intercede to prevent the use of excessive force, unless  
 21 interceding would result in imminent harm to either officer or  
 22 another identifiable individual.

23           B. A law enforcement officer who observes another  
 24 law enforcement officer using physical force, including deadly  
 25 physical force, that appears to be beyond that which is lawful

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1 based on the totality of the circumstances shall report the  
2 incident to the observed officer's direct supervisor as soon as  
3 reasonably possible but no later than the end of the observing  
4 officer's shift. The observing law enforcement officer shall  
5 prepare a detailed written statement describing the incident  
6 consistent with the uniform protocols set forth in Subsection A  
7 of Section 2 of this 2021 act. The observing law enforcement  
8 officer's written statement shall be included in the  
9 supervisor's report.

10 C. All persons in New Mexico have a right to the  
11 intervention of law enforcement officers in the circumstances  
12 set forth in this section. A law enforcement officer who had a  
13 duty to intervene and failed to do so shall be disciplined and,  
14 depending on the seriousness of the violation, may be  
15 decommissioned and terminated from that officer's position. A  
16 law enforcement officer who had a duty to intervene and failed  
17 to do so may be held liable, jointly and severally with any  
18 officer who used unreasonable force for any injuries or death  
19 caused by such officer's unreasonable use of force.

20 SECTION 8. [NEW MATERIAL] REQUIRING USE OF FORCE  
21 POLICIES--PUBLISHING POLICIES.--

22 A. Every law enforcement agency shall adopt a  
23 policy regarding the use of force by its officers.

24 B. The use of force policy required pursuant to  
25 Subsection A of this section shall address the following:

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1 (1) required procedures for de-escalation  
2 tactics and techniques before using or increasing the use of  
3 force;

4 (2) procedures to determine the appropriate  
5 level of force to be used in particular situations, with  
6 examples;

7 (3) a ban on the use of chokeholds;

8 (4) required procedures for issuing warnings  
9 prior to discharging a firearm or discharging a stun gun;

10 (5) clear limits on the use of force pursuant  
11 to Section 6 of this 2021 act, ensuring that less than deadly  
12 physical force is used only to the extent that it is  
13 proportionate and the least amount of force necessary to  
14 achieve its lawful objective and that deadly physical force is  
15 only used as a last resort when necessary to defend against  
16 imminent threats to human life;

17 (6) the duty of law enforcement officers to  
18 intervene pursuant to Section 7 of this 2021 act; and

19 (7) comprehensive reporting protocols pursuant  
20 to Subsection A of Section 2 of this 2021 act.

21 C. Not later than ninety days after the effective  
22 date of this 2021 act, the head of each law enforcement agency  
23 shall publish the use of force policy required by Subsection A  
24 of this section in a location that is accessible to the public  
25 and in a conspicuous place on the agency's website, if any.

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1           SECTION 9.   [NEW MATERIAL] SEARCH WARRANTS--REQUIRING  
2           KNOCK AND ANNOUNCE--SHOWING SEARCH WARRANT--PROVIDING A  
3           PENALTY.--

4                   A.   A law enforcement officer executing a search  
5           warrant shall knock and announce the officer's presence and  
6           purpose before forcibly entering a residence.  A law  
7           enforcement officer shall not dispense with the requirement of  
8           this subsection in any circumstances.  A law enforcement  
9           officer shall not seek, execute or participate in the execution  
10          of a search warrant in which the executing officers do not  
11          knock and announce their presence and purpose.

12                   B.   When executing a search warrant, a law  
13          enforcement officer shall be recognizable and identifiable as a  
14          uniformed law enforcement officer.  The law enforcement officer  
15          shall provide audible notice of the officer's authority and  
16          purpose in a manner reasonably expected to be heard by  
17          occupants of such place to be searched prior to the execution  
18          of such search warrant.

19                   C.   After entering and securing the place to be  
20          searched, and prior to undertaking any search or seizure  
21          pursuant to the search warrant, the executing law enforcement  
22          officer shall read and give a copy of the search warrant to the  
23          person to be searched or the owner of the place to be searched  
24          or, if the owner is not present, to any occupant of the place  
25          to be searched.  If the place to be searched is unoccupied, the

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underscoring material = new  
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1 executing law enforcement officer shall leave a copy of the  
 2 search warrant suitably affixed to the place to be searched.

3 D. A law enforcement officer charged with the  
 4 execution of a search warrant shall be accompanied only by such  
 5 other persons as may be reasonably necessary for the successful  
 6 execution of the search warrant with all practicable safety.

7 E. A law enforcement officer entering a premises  
 8 pursuant to a search warrant shall not be armed with  
 9 specialized, military-style equipment, including assault  
 10 rifles, submachine guns, shotguns, flash bang stun grenades or  
 11 other stun agents, except when expressly authorized by the  
 12 search warrant upon a showing of particularized suspicion that  
 13 an occupant of the target premises is in actual possession of  
 14 deadly weaponry and the use of specialized weaponry by law  
 15 enforcement officers is likely to be necessary.

16 F. Before entering the premises of any property to  
 17 be searched, a law enforcement officer shall:

18 (1) physically knock on an entry door to the  
 19 premises in a manner and duration that can be heard by the  
 20 occupants and additionally, when available, sound any bell or  
 21 other device affixed to the outside of a building that can be  
 22 rung by visitors to signal a visitor's arrival;

23 (2) clearly and verbally announce as law  
 24 enforcement having a search warrant in a manner that can be  
 25 heard by the occupants; and

.220096.2

underscored material = new  
~~[bracketed material] = delete~~

1 (3) clearly and verbally announce that the  
2 occupants must open the door pursuant to the search warrant and  
3 that force may be used if the occupants fail to respond.

4 G. Evidence seized or obtained shall be  
5 inadmissible if subsequent judicial review determines that a  
6 law enforcement officer did not comply with Subsections A  
7 through F of this section.