

HOUSE BILL 1121

E2

9lr2032

By: **Delegates Washington and Barron**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Law Enforcement Procedures – Use of Force**

3 FOR the purpose of providing that a certain police officer is justified in using force under
4 certain circumstances; providing that a certain police officer is justified in using
5 deadly force under certain circumstances; requiring a certain trier of fact to consider
6 certain factors when assessing whether a certain police officer's beliefs and actions
7 were reasonable; requiring a certain trier of fact to consider a certain police officer's
8 beliefs and actions from the perspective of a reasonable police officer; requiring that
9 a certain police officer be found not guilty of murder but guilty of voluntary
10 manslaughter if the police officer acted with a certain belief; defining certain terms;
11 and generally relating to the use of force by police officers.

12 BY adding to

13 Article – Criminal Procedure
14 Section 2–109
15 Annotated Code of Maryland
16 (2018 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Criminal Procedure**

20 **2–109.**

21 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(2) “DEADLY FORCE” MEANS FORCE LIKELY OR INTENDED TO**
24 **CREATE A SUBSTANTIAL RISK OF SERIOUS BODILY INJURY OR DEATH.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(3) “DEADLY WEAPON” MEANS AN OBJECT, USED OR INTENDED TO BE**
2 **USED, THAT IS LIKELY TO CAUSE SERIOUS BODILY INJURY OR DEATH.**

3 **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A POLICE**
4 **OFFICER IS JUSTIFIED IN USING FORCE AGAINST A PERSON IF:**

5 **(1) (I) 1. THERE IS PROBABLE CAUSE TO BELIEVE THAT THE**
6 **PERSON COMMITTED A CRIME; AND**

7 **2. THE FORCE IS USED TO PREVENT THE PERSON’S**
8 **ESCAPE FROM LAWFUL CUSTODY; OR**

9 **(II) THE FORCE IS USED TO PREVENT THE COMMISSION OF A**
10 **CRIME; AND**

11 **(2) THE POLICE OFFICER USES NO MORE FORCE THAN WHAT IS**
12 **REASONABLY NECESSARY TO EFFECTUATE AN ARREST.**

13 **(C) A POLICE OFFICER IS JUSTIFIED IN USING DEADLY FORCE IF:**

14 **(1) THE POLICE OFFICER REASONABLY BELIEVES THAT DEADLY**
15 **FORCE IS NECESSARY TO PROTECT THE POLICE OFFICER OR ANOTHER PERSON**
16 **FROM THE THREAT OF SERIOUS BODILY INJURY OR DEATH; AND**

17 **(2) THE POLICE OFFICER’S ACTIONS ARE REASONABLE GIVEN THE**
18 **TOTALITY OF THE CIRCUMSTANCES.**

19 **(D) A TRIER OF FACT SHALL CONSIDER THE FOLLOWING FACTORS AS PART**
20 **OF THE TOTALITY OF THE CIRCUMSTANCES WHEN ASSESSING WHETHER THE POLICE**
21 **OFFICER’S BELIEFS AND ACTIONS WERE REASONABLE:**

22 **(1) WHETHER THE INJURED OR DECEASED PERSON:**

23 **(I) POSSESSED OR APPEARED TO POSSESS A DEADLY WEAPON**
24 **OR AN OBJECT THAT COULD BE USED AS A DEADLY WEAPON; AND**

25 **(II) REFUSED TO COMPLY WITH A POLICE OFFICER’S ORDER TO**
26 **FORFEIT AN OBJECT BELIEVED TO BE A DEADLY WEAPON, OR ANY OTHER ORDER**
27 **REASONABLY RELATED TO PUBLIC SAFETY PRIOR TO THE POLICE OFFICER USING**
28 **DEADLY FORCE;**

29 **(2) WHETHER THE POLICE OFFICER ENGAGED IN DE-ESCALATION**

1 MEASURES, INCLUDING TAKING COVER, WAITING FOR BACKUP, TRYING TO CALM
2 THE DECEASED OR INJURED PERSON, OR USING LESS LETHAL TYPES OF FORCE
3 PRIOR TO THE USE OF DEADLY FORCE, IF SUCH MEASURES WERE REASONABLE; AND

4 (3) WHETHER ANY CONDUCT BY THE POLICE OFFICER INCREASED
5 THE RISK OF A CONFRONTATION RESULTING IN DEADLY FORCE BEING USED.

6 (E) THE REASONABLENESS OF THE DEFENDANT POLICE OFFICER'S BELIEFS
7 AND ACTIONS SHALL BE CONSIDERED FROM THE PERSPECTIVE OF A REASONABLE
8 POLICE OFFICER.

9 (F) IF A POLICE OFFICER ACTED WITH AN HONEST BUT UNREASONABLE
10 BELIEF IN THE NEED TO USE DEADLY FORCE, THE POLICE OFFICER SHALL BE FOUND
11 NOT GUILTY OF MURDER BUT GUILTY OF VOLUNTARY MANSLAUGHTER.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2019.