

HOUSE BILL 166

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0lr0819

By: **Delegates Washington, Barron, Bartlett, W. Fisher, Ivey, J. Lewis, and Wilkins**
Introduced and read first time: January 15, 2020
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; defining certain
9 terms; and generally relating to the use of force by police officers.

10 BY adding to

11 Article – Criminal Procedure

12 Section 2–109

13 Annotated Code of Maryland

14 (2018 Replacement Volume and 2019 Supplement)

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

17 **Article – Criminal Procedure**

18 **2–109.**

19 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
20 **INDICATED.**

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

23 **(3) “DEADLY WEAPON” MEANS AN OBJECT, USED OR INTENDED TO BE**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 USED, THAT IS LIKELY TO CAUSE SERIOUS BODILY INJURY OR DEATH.

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

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

6 2. THE FORCE IS USED TO PREVENT THE PERSON'S
7 ESCAPE FROM LAWFUL CUSTODY; OR

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

10 (2) THE POLICE OFFICER USES NO MORE FORCE THAN REASONABLY
11 NECESSARY TO EFFECTUATE AN ARREST.

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

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

16 (2) THE POLICE OFFICER'S ACTIONS ARE REASONABLE GIVEN THE
17 TOTALITY OF THE CIRCUMSTANCES.

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

21 (1) WHETHER THE INJURED OR DECEASED PERSON:

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

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

28 (2) WHETHER THE POLICE OFFICER ENGAGED IN DE-ESCALATION
29 MEASURES, INCLUDING TAKING COVER, WAITING FOR BACKUP, TRYING TO CALM
30 THE PERSON, OR USING LESS LETHAL TYPES OF FORCE PRIOR TO THE USE OF

1 DEADLY FORCE, IF SUCH MEASURES WERE REASONABLE; AND

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

4 (E) A TRIER OF FACT SHALL CONSIDER THE REASONABLENESS OF THE
5 DEFENDANT POLICE OFFICER'S BELIEFS AND ACTIONS FROM THE PERSPECTIVE OF
6 A REASONABLE POLICE OFFICER.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.