

SENATE BILL 626

E4, E1, D3

1lr1297
CF HB 139

By: **Senator Carter**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers – Use of Force**

3 FOR the purpose of authorizing a person to seek certain relief for use of force by a law
4 enforcement officer, under certain circumstances, by filing a civil action with a
5 certain court; providing that a certain person is not precluded from pursuing a
6 certain legal remedy under certain circumstances; authorizing the Attorney General
7 to file a civil action for certain relief under certain circumstances; providing for the
8 use of force by a certain law enforcement officer; providing for the use of lethal force
9 by a certain law enforcement officer; providing that a law enforcement officer who
10 uses lethal force against a person in a manner inconsistent with a certain provision
11 of this Act may be charged with certain crimes; prohibiting a law enforcement officer
12 from recklessly failing to act in accordance with certain provisions of this Act;
13 prohibiting a law enforcement officer from knowingly and willfully failing to act in
14 accordance with certain provisions of this Act; providing certain penalties for a
15 violation of this Act; requiring each local law enforcement agency to establish,
16 maintain, and implement certain policies and guidance for law enforcement agencies
17 on or before a certain date; requiring each local law enforcement agency to include
18 in its annual budget funds for a certain purpose on or before a certain date; requiring
19 a local law enforcement agency to post on its public website certain data on or before
20 a certain date and every 6 months thereafter; requiring the Attorney General to
21 annually review a certain sample of certain policies enacted by local law enforcement
22 agencies beginning on or before a certain date; providing that certain local law
23 enforcement agencies may not receive certain funds under certain circumstances;
24 requiring the Attorney General to make certain notifications under certain
25 circumstances; defining certain terms; and generally relating to the use of force by
26 law enforcement officers.

27 BY adding to

28 Article – Courts and Judicial Proceedings

29 Section 3–2201 to be under the new subtitle “Subtitle 22. Excessive Force by Law
30 Enforcement Officers”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2020 Replacement Volume)

3 BY adding to
4 Article – Criminal Law
5 Section 10–801 through 10–805 to be under the new subtitle “Subtitle 8. Improper
6 Use of Force by Law Enforcement Officers”
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2020 Supplement)

9 BY adding to
10 Article – Public Safety
11 Section 3–523
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2020 Supplement)

14 Preamble

15 WHEREAS, The great power entrusted to law enforcement officers to use physical
16 force must be exercised judiciously, and governed in the overriding principles of respect for
17 human rights and dignity and the sanctity of human life; and

18 WHEREAS, Every person has a right to be free from excessive use of force by law
19 enforcement officers acting under authority of the State; and

20 WHEREAS, The pursuit of justice ought not come at such cost to life and dignity to
21 outweigh or mar the good sought in it; now, therefore,

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

24 **Article – Courts and Judicial Proceedings**

25 **SUBTITLE 22. EXCESSIVE FORCE BY LAW ENFORCEMENT OFFICERS.**

26 **3–2201.**

27 **(A) A PERSON MAY SEEK RELIEF BY FILING WITH ANY COURT OF**
28 **COMPETENT JURISDICTION A CIVIL ACTION FOR THE USE OF FORCE BY A LAW**
29 **ENFORCEMENT OFFICER IN A MANNER INCONSISTENT WITH § 10–801 OF THE**
30 **CRIMINAL LAW ARTICLE.**

31 **(B) A PERSON IS NOT LIMITED TO OR PRECLUDED FROM PURSUING ANY**
32 **OTHER LEGAL REMEDY BY PROCEEDING UNDER THIS SUBTITLE.**

33 **(C) THE ATTORNEY GENERAL MAY FILE A CIVIL ACTION FOR SUCH**

1 DECLARATORY OR INJUNCTIVE RELIEF AS IS NECESSARY TO REMEDY ANY
2 UNLAWFUL USE OF FORCE.

3 Article – Criminal Law

4 SUBTITLE 8. IMPROPER USE OF FORCE BY LAW ENFORCEMENT OFFICERS.

5 10–801.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “DE-ESCALATION TACTICS AND TECHNIQUES” MEANS PROACTIVE
9 ACTIONS AND APPROACHES USED BY A LAW ENFORCEMENT OFFICER TO STABILIZE
10 A SITUATION SO THAT MORE TIME, OPTIONS, AND RESOURCES ARE AVAILABLE TO
11 GAIN A PERSON’S VOLUNTARY COMPLIANCE AND REDUCE OR ELIMINATE THE NEED
12 TO USE FORCE, INCLUDING:

13 (1) VERBAL PERSUASION;

14 (2) TACTICAL TECHNIQUES;

15 (3) SLOWING DOWN THE PACE OF AN INCIDENT;

16 (4) WAITING OUT A SUSPECT;

17 (5) CREATING DISTANCE BETWEEN THE OFFICER AND THE PERSON;

18 (6) REQUESTING ADDITIONAL RESOURCES TO RESOLVE AN INCIDENT;

19 (7) ALLOWING A PERSON TO MOVE ABOUT IF IT IS SAFE TO DO SO; AND

20 (8) ALLOWING A PERSON THE OPPORTUNITY TO MAKE STATEMENTS
21 OR ASK QUESTIONS.

22 (C) (1) “IMMINENT THREAT” MEANS, WHEN BASED ON THE TOTALITY OF
23 THE CIRCUMSTANCES, A REASONABLE LAW ENFORCEMENT OFFICER WITH
24 EXPERIENCE AND TRAINING IN THE USE OF FORCE OR LETHAL FORCE IN THE SAME
25 SITUATION WOULD BELIEVE THAT A PERSON HAS THE PRESENT ABILITY,
26 OPPORTUNITY, AND APPARENT INTENT TO CAUSE IMMEDIATE DEATH OR PHYSICAL
27 INJURY TO THE OFFICER OR ANOTHER PERSON, AND FROM APPEARANCES, MUST BE
28 INSTANTLY CONFRONTED AND ADDRESSED TO PREVENT DEATH OF OR PHYSICAL
29 INJURY TO THE OFFICER OR ANOTHER PERSON.

1 **(2) “IMMINENT THREAT” DOES NOT INCLUDE THE MERE FEAR OF**
2 **FUTURE HARM, NO MATTER HOW GREAT THE FEAR AND NO MATTER HOW GREAT THE**
3 **LIKELIHOOD OF THE THREAT.**

4 **(D) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 1-202**
5 **OF THE PUBLIC SAFETY ARTICLE.**

6 **(E) (1) “LETHAL FORCE” MEANS ANY FORCE THAT CREATES A**
7 **SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL INJURY, WHETHER OR NOT**
8 **INTENDED TO CAUSE DEATH OR SERIOUS PHYSICAL INJURY.**

9 **(2) “LETHAL FORCE” INCLUDES:**

10 **(I) THE DISCHARGE OF A FIREARM, UNLESS DONE AT A SECURE**
11 **TRAINING SITE;**

12 **(II) A STRIKE TO A PERSON’S HEAD, NECK, STERNUM, SPINE,**
13 **GROIN, OR KIDNEYS USING ANY HARD OBJECT;**

14 **(III) A STRIKE TO A PERSON’S HEAD AGAINST A HARD, FIXED**
15 **OBJECT;**

16 **(IV) A KICK OR STRIKE TO A PERSON’S HEAD USING A KNEE OR**
17 **FOOT;**

18 **(V) A STRIKE TO A PERSON’S THROAT;**

19 **(VI) A KNEE-DROP ON THE HEAD, NECK, OR TORSO OF A PERSON**
20 **IN A PRONE OR SUPINE POSITION;**

21 **(VII) A MANEUVER THAT RESTRICTS BLOOD OR OXYGEN FLOW TO**
22 **THE BRAIN, INCLUDING CHOKEHOLDS, STRANGLEHOLDS, NECK RESTRAINTS,**
23 **NECK-HOLDS, AND CAROTID ARTERY RESTRAINTS;**

24 **(VIII) ANY CONTACT WITH THE NECK THAT MAY INHIBIT**
25 **BREATHING OR BLOOD FLOW, OR THAT APPLIES PRESSURE TO THE FRONT, SIDE, OR**
26 **BACK OF THE NECK;**

27 **(IX) THE DISCHARGE OF A LESS-LETHAL KINETIC IMPACT**
28 **PROJECTILE LAUNCHER AT A PERSON’S HEAD, NECK, CHEST, OR BACK; AND**

29 **(X) MORE THAN ONE DISCHARGE OF AN ELECTRONIC CONTROL**
30 **DEVICE ON A PERSON.**

1 **10-802.**

2 **(A) (1) A LAW ENFORCEMENT OFFICER MAY USE FORCE ONLY:**

3 **(I) WHEN IT IS NECESSARY FORCE;**

4 **(II) WHEN REASONABLE ALTERNATIVES TO THE USE OF FORCE**
5 **HAVE BEEN EXHAUSTED; AND**

6 **(III) UNTIL THE USE OF FORCE HAS ACCOMPLISHED A**
7 **LEGITIMATE LAW ENFORCEMENT OBJECTIVE.**

8 **(2) A LAW ENFORCEMENT OFFICER SHALL:**

9 **(I) IMMEDIATELY MODULATE FORCE AS THE THREAT**
10 **DIMINISHES; AND**

11 **(II) CEASE THE USE OF FORCE AS SOON AS:**

12 **1. THE PERSON ON WHOM FORCE IS USED:**

13 **A. IS UNDER THE OFFICER'S CONTROL; OR**

14 **B. NO LONGER POSES AN IMMINENT THREAT OF SERIOUS**
15 **PHYSICAL INJURY OR DEATH TO THE OFFICER OR TO ANOTHER PERSON; OR**

16 **2. THE OFFICER DETERMINES THAT FORCE WILL NO**
17 **LONGER ACCOMPLISH, OR IS NO LONGER REASONABLE AND PROPORTIONAL TO**
18 **ACCOMPLISH, A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.**

19 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW**
20 **ENFORCEMENT OFFICER MAY NOT USE LETHAL FORCE AGAINST A PERSON UNLESS:**

21 **(I) LETHAL NECESSARY FORCE IS USED AS A LAST RESORT TO**
22 **PREVENT IMMINENT THREAT OF DEATH OR SERIOUS PHYSICAL INJURY TO THE**
23 **OFFICER OR ANOTHER PERSON;**

24 **(II) THE USE OF LETHAL FORCE PRESENTS NO SUBSTANTIAL**
25 **RISK OF INJURY TO A THIRD PERSON; AND**

26 **(III) ALL REASONABLE ALTERNATIVES TO THE USE OF LETHAL**
27 **FORCE HAVE BEEN EXHAUSTED.**

1 **(2) A LAW ENFORCEMENT OFFICER IS NOT JUSTIFIED IN THE USE OF**
2 **LETHAL FORCE AGAINST A PERSON WHO POSES A DANGER ONLY TO THAT PERSON.**

3 **(C) (1) A LAW ENFORCEMENT OFFICER WHO USES FORCE AGAINST A**
4 **PERSON IN A MANNER INCONSISTENT WITH THIS SECTION THAT RESULTS IN DEATH**
5 **MAY BE CHARGED WITH MANSLAUGHTER OR MURDER UNDER TITLE 2, SUBTITLE 2**
6 **OF THIS ARTICLE.**

7 **(2) A LAW ENFORCEMENT OFFICER WHO USES LETHAL FORCE**
8 **AGAINST A PERSON IN A MANNER INCONSISTENT WITH THIS SECTION THAT DOES**
9 **NOT RESULT IN DEATH MAY BE CHARGED WITH RECKLESS ENDANGERMENT OR**
10 **ASSAULT UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.**

11 **10-803.**

12 **(A) IN THIS SECTION, “EXCESSIVE FORCE” MEANS PHYSICAL FORCE THAT,**
13 **UNDER THE TOTALITY OF THE CIRCUMSTANCES, IS OBJECTIVELY UNREASONABLE.**

14 **(B) (1) A LAW ENFORCEMENT OFFICER WHO KNOWS OR REASONABLY**
15 **SHOULD KNOW THAT ANOTHER LAW ENFORCEMENT OFFICER IS USING EXCESSIVE**
16 **FORCE OR INTENDS TO USE EXCESSIVE FORCE SHALL MAKE A REASONABLE**
17 **ATTEMPT TO INTERVENE TO TERMINATE OR PREVENT THE OTHER LAW**
18 **ENFORCEMENT OFFICER’S USE OF EXCESSIVE FORCE.**

19 **(2) A LAW ENFORCEMENT OFFICER WHO KNOWS OR REASONABLY**
20 **SHOULD KNOW THAT ANOTHER LAW ENFORCEMENT OFFICER HAS USED EXCESSIVE**
21 **FORCE SHALL IMMEDIATELY NOTIFY THE LAW ENFORCEMENT OFFICER’S**
22 **SUPERVISOR OF THE OTHER LAW ENFORCEMENT OFFICER’S USE OF EXCESSIVE**
23 **FORCE.**

24 **(C) A POLICE OFFICER MAY NOT KNOWINGLY VIOLATE SUBSECTION (B) OF**
25 **THIS SECTION.**

26 **10-804.**

27 **(A) A LAW ENFORCEMENT OFFICER SHALL PROMPTLY PROVIDE, OR MAKE**
28 **REASONABLE EFFORTS TO OBTAIN, APPROPRIATE MEDICAL TREATMENT FOR A**
29 **PERSON INJURED AS A RESULT OF A LAW ENFORCEMENT OFFICER’S USE OF FORCE.**

30 **(B) THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT OFFICER IF,**
31 **UNDER THE TOTALITY OF THE CIRCUMSTANCES, A REASONABLE LAW**

1 ENFORCEMENT OFFICER WOULD BELIEVE PROVIDING OR OBTAINING MEDICAL
2 TREATMENT WOULD BE UNSAFE.

3 (C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A LAW
4 ENFORCEMENT OFFICER TO PROVIDE MEDICAL TREATMENT THAT IS INCONSISTENT
5 WITH OR MORE ADVANCED THAN THE TRAINING AND QUALIFICATIONS OF THE LAW
6 ENFORCEMENT OFFICER.

7 **10-805.**

8 (A) A LAW ENFORCEMENT OFFICER MAY NOT RECKLESSLY FAIL TO ACT IN
9 ACCORDANCE WITH THIS SUBTITLE.

10 (B) A LAW ENFORCEMENT OFFICER MAY NOT KNOWINGLY AND WILLFULLY
11 FAIL TO ACT IN ACCORDANCE WITH THIS SUBTITLE.

12 (C) (1) A LAW ENFORCEMENT OFFICER WHO VIOLATES SUBSECTION (A)
13 OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT
14 TO IMPRISONMENT NOT EXCEEDING 5 YEARS.

15 (2) A LAW ENFORCEMENT OFFICER WHO VIOLATES SUBSECTION (B)
16 OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT
17 TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

18 **Article – Public Safety**

19 **3-523.**

20 (A) IN THIS SECTION, “LOCAL LAW ENFORCEMENT AGENCY” HAS THE
21 MEANING STATED IN § 3-505 OF THIS SUBTITLE.

22 (B) ON OR BEFORE JULY 1, 2022, IN CONSULTATION WITH THE OFFICE OF
23 THE ATTORNEY GENERAL, IMPACTED PERSONS, COMMUNITIES, AND
24 ORGANIZATIONS, INCLUDING REPRESENTATIVES OF CIVIL AND HUMAN RIGHTS
25 ORGANIZATIONS, VICTIMS OF POLICE VIOLENCE, AND REPRESENTATIVES OF LAW
26 ENFORCEMENT AGENCIES, EACH LOCAL LAW ENFORCEMENT AGENCY SHALL
27 ESTABLISH, MAINTAIN, AND IMPLEMENT POLICIES AND GUIDANCE FOR LAW
28 ENFORCEMENT AGENCIES ON:

29 (1) PROHIBITED ACTIONS UNDER § 10-801 OF THE CRIMINAL LAW
30 ARTICLE;

31 (2) PRINCIPLES REGARDING USE OF FORCE, INCLUDING:

1 (I) ENCOURAGING OFFICERS TO RESOLVE INCIDENTS
2 WITHOUT USING FORCE;

3 (II) USING TACTICS THAT DO NOT ESCALATE AN ENCOUNTER;

4 (III) CONTINUALLY ASSESSING THE CIRCUMSTANCES TO
5 IMMEDIATELY DECREASE THE LEVEL OF FORCE AND CEASE ALL FORCE AS SOON AS
6 POSSIBLE;

7 (IV) USING FORCE IN A MANNER THAT AVOIDS UNNECESSARY
8 INJURY OR RISK OF INJURY;

9 (V) ASSESSING WHETHER THE USE OF FORCE IS APPROPRIATE
10 AND NECESSARY;

11 (VI) UNLESS A REASONABLE OFFICER WOULD CONSIDER IT TO
12 BE UNSAFE TO DO SO UNDER THE TOTALITY OF THE CIRCUMSTANCES, REQUIRING
13 AN OFFICER TO SELF-IDENTIFY AND ISSUE A VERBAL WARNING TO THE PERSON
14 WHOM THE OFFICER SEEKS TO STOP, DETAIL, OR APPREHEND THAT:

15 1. REQUESTS THAT THE PERSON OBEY THE OFFICER;

16 AND

17 2. NOTIFIES THE PERSON THAT THE OFFICER MAY USE
18 FORCE AGAINST THE PERSON TO EFFECTUATE A STOP, A DETENTION, OR AN ARREST
19 OF THE PERSON; AND

20 (VII) EVALUATING EACH APPLICATION OF FORCE
21 INDEPENDENTLY AS A SEPARATE USE OF FORCE, WITH EACH APPLICATION TO BE
22 SEPARATELY JUSTIFIED AS LAWFUL;

23 (3) PROTECTING OFFICERS FROM RETALIATION OR DISCIPLINE FOR:

24 (I) INTERVENING TO PREVENT THE IMPROPER USE OF FORCE
25 BY ANOTHER OFFICER; AND

26 (II) REPORTING THE IMPROPER USE OF FORCE BY ANOTHER
27 OFFICER; AND

28 (4) REQUIRING EACH LAW ENFORCEMENT AGENCY TO DOCUMENT
29 ALL USES OF FORCE, INVESTIGATE USES OF FORCE, ASSESS WHETHER THE USE OF
30 FORCE IS NECESSARY AND CONSISTENT WITH STATE LAW, AND REVIEW USE OF

1 **FORCE INVESTIGATIONS.**

2 **(C) ON OR BEFORE JULY 1, 2022, EACH LOCAL LAW ENFORCEMENT AGENCY**
3 **SHALL INCLUDE IN ITS ANNUAL BUDGET FUNDS FOR:**

4 **(1) TRAINING AND ASSESSMENT OF TRAINING, INCLUDING TRAINING**
5 **ON INTERACTIONS WITH PERSONS WHO ARE:**

6 **(I) VULNERABLE; AND**

7 **(II) IN CRISIS WHILE IN POSSESSION OF A KNIFE, AN EDGED**
8 **WEAPON, OR A BLUNT WEAPON; AND**

9 **(2) ASSESSING SUPERVISORS IN THE REINFORCEMENT OF TRAINING**
10 **OBJECTIVES IN REAL-WORLD SCENARIOS.**

11 **(D) ON OR BEFORE DECEMBER 31, 2021, AND EVERY 6 MONTHS**
12 **THEREAFTER, EACH LOCAL LAW ENFORCEMENT AGENCY SHALL POST, ON THE**
13 **PUBLIC WEBSITE FOR THE AGENCY, DATA REGARDING USE OF FORCE BY EACH**
14 **OFFICER EMPLOYED BY THE LOCAL LAW ENFORCEMENT AGENCY, DISAGGREGATED**
15 **BY THE RACE, AGE, SEX, GENDER, ETHNICITY, COLOR, NATIONAL ORIGIN, RELIGION,**
16 **AND DISABILITY OF EACH PERSON ON WHOM FORCE WAS USED, INCLUDING:**

17 **(1) EACH TYPE OF FORCE USED;**

18 **(2) THE REASON FORCE WAS USED;**

19 **(3) WHETHER THE AGENCY DETERMINED THE USE OF FORCE WAS**
20 **JUSTIFIED;**

21 **(4) WHETHER THE PERSON WHO WAS THE SUBJECT OF THE USE OF**
22 **FORCE WAS ARRESTED;**

23 **(5) WHETHER CRIMINAL CHARGES WERE FILED AGAINST THE PERSON**
24 **WHO WAS THE SUBJECT OF THE USE OF FORCE AND WHAT CHARGES WERE FILED;**

25 **(6) WHETHER THE PERSON WHO WAS THE SUBJECT OF THE USE OF**
26 **FORCE WAS INJURED AND, IF SO, WHETHER THE PERSON WAS HOSPITALIZED;**

27 **(7) WHETHER THE LAW ENFORCEMENT OFFICER WHO USED FORCE**
28 **WAS INJURED AND, IF SO, WHETHER THE OFFICER WAS HOSPITALIZED; AND**

29 **(8) THE RACE, AGE, AND SEX OF:**

- 1 **(I) THE LAW ENFORCEMENT OFFICER WHO USED FORCE; AND**
- 2 **(II) THE PERSON WHO WAS THE SUBJECT OF THE USE OF FORCE.**

3 **(E) (1) ON OR BEFORE DECEMBER 31, 2021, AND EACH DECEMBER 31**
4 **THEREAFTER, THE ATTORNEY GENERAL SHALL REVIEW A REPRESENTATIVE**
5 **SAMPLE OF THE POLICIES ENACTED BY LOCAL LAW ENFORCEMENT AGENCIES**
6 **RELATING TO USE OF FORCE AND THE INTERNAL FILES OF LAW ENFORCEMENT**
7 **AGENCIES TO DETERMINE COMPLIANCE WITH THIS SECTION.**

8 **(2) IF THE ATTORNEY GENERAL DETERMINES THAT A LOCAL LAW**
9 **ENFORCEMENT AGENCY HAS NOT COMPLIED WITH THIS SECTION:**

10 **(I) THE ATTORNEY GENERAL SHALL NOTIFY THE EXECUTIVE**
11 **DIRECTOR OF THE GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND**
12 **VICTIM SERVICES AND THE COMPTROLLER; AND**

13 **(II) THE LOCAL LAW ENFORCEMENT AGENCY MAY NOT RECEIVE**
14 **FUNDS ADMINISTERED THROUGH THE STATE AID FOR POLICE PROTECTION FUND**
15 **UNDER TITLE 4, SUBTITLE 5 OF THIS ARTICLE.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2021.