



**State of Maryland**  
**Department of State Police**  
Government Affairs Section  
Annapolis Office (410) 260-6100

**POSITION ON PROPOSED LEGISLATION**

**DATE:** February 9, 2021

**BILL NUMBER:** House Bill 139      **POSITION:** Oppose

**BILL TITLE:** Law Enforcement Officers – Use of Force

This legislation seeks to allow a person to seek civil relief for the use of force by a law enforcement officer that is inconsistent with the provisions of the legislation. This legislation requires a law enforcement officer to use “De-escalation tactics and techniques” to gain a person’s voluntary compliance. As defined in this legislation, imminent threat does not include the mere fear of future harm, no matter how great the fear and no matter how great the likelihood of the threat.

Under current law, any person who believes they have been wronged by a law enforcement officer has the ability to seek a civil remedy through the Tort Claims process. The use of force by law enforcement officers is already defined as using the level of force based upon an officer’s evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used, and upon what a reasonably prudent officer would use under the same or similar situations.

As written, House Bill 139 seeks to define an imminent threat in such a way that an officer could not defend themselves or another until the actual attack against the officer or another begins. This is a very high standard to meet. The bill states that an imminent threat does not include the mere fear of future harm, no matter how great the fear and no matter how great the likelihood of the threat. This is a direct conflict to the guidance provided by the courts.

If a suspect has a gun and points it at an officer and threatens to shoot her, under Senate Bill 626 the fear of future harm “no matter how great” is not considered an imminent threat. The action by the shooter is not enough to defend oneself or another until the gun goes off. When does the totality of the circumstances, based on training and experience, say there is an imminent threat? Based on current case law, the officer’s actions would be objectionably reasonable once the firearm was pointed at the officer or other person.

**State of Maryland**  
**Department of State Police**  
Government Affairs Section  
Annapolis Office (410) 260-6100

**POSITION ON PROPOSED LEGISLATION**

The Maryland State Police employs training techniques that include de-escalation, and use of non-deadly weapons to arrest or detain a subject. Our goals include the safety of the victims, our officers and the people we encounter for any number of reasons.

The Department believes there should be a consistent statewide standard for the use of force and transparency in the reporting of use of force encounters. The Maryland Police Training and Standards Commission should be the independent body that develops and implements the standards. As written, Senate Bill 626 creates a difficult standard for a law enforcement officer to follow.

For these reasons, the Maryland State Police urges the committee to give House Bill 139 an unfavorable report.