

1 SENATE BILL 227

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Linda M. Lopez

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10 AN ACT

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

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

23 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--
24 Every person has a right to inspect public records of this
25 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--DEPARTMENT OF PUBLIC SAFETY INVESTIGATION--PROSCRIBING
2 PENALTIES.--

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

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

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1 the time of the incident;

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

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

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

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

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

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

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

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

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

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

25 (b) the execution of a warrant or other

1 enforcement action; or

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

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

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

20 C. The secretary shall investigate the use of
21 physical force in all incidents that result in emergency
22 medical care, hospitalization or death. Within ninety days of
23 the incident, the secretary shall determine whether physical
24 force was justified pursuant to Section 6 of this 2021 act;
25 provided that a conclusion by the secretary pursuant to this

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1 subsection that force was justified shall not be admissible or
2 have any preclusive effect in any civil or criminal proceeding;
3 and provided further that an investigation by the secretary
4 shall not preclude any other elected official or public body
5 from conducting an investigation of an officer-involved injury
6 or death.

7 D. A law enforcement agency that fails to comply
8 with Subsection B of this section shall be ineligible to apply
9 for grants administered by any state agency. The secretary
10 shall afford the law enforcement agency an opportunity to
11 contest a finding that the agency did not comply with
12 Subsection B of this section.

13 E. The secretary shall prepare an annual report
14 regarding all officer-involved injuries or deaths that occurred
15 during the preceding fiscal year. The report shall include:

- 16 (1) the total number of officer-involved
17 injuries or deaths;
18 (2) the number of officer-involved injuries or
19 deaths reported by each law enforcement agency;
20 (3) the entirety of data reported using the
21 uniform protocol; and
22 (4) any operational, policy, regulatory or
23 legislative recommendations to reduce the number and
24 seriousness of officer-involved injuries or deaths.

25 F. On or before September 30 of each year, the

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1 secretary shall submit the report to the governor, the speaker
2 of the house of representatives, the president pro tempore of
3 the senate and the appropriate legislative interim committee
4 dealing with courts, corrections and justice. On or before
5 September 30 of each year, the secretary shall post the report
6 on the department's website.

7 G. As used in this section:

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

12 (2) "deadly weapon" means a firearm or any
13 object manifestly designed, made or adapted for the purpose of
14 inflicting death or serious bodily injury or any object that,
15 in the manner of its use, is capable of causing death or
16 serious bodily injury;

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

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1 incident, including but not limited to calling in medical or
2 mental health professionals to address a potential medical or
3 mental health crisis;

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

8 (5) "law enforcement agency" means the police
9 department of a municipality, the sheriff's office of a county,
10 the New Mexico state police or the department;

11 (6) "law enforcement officer" means a full-
12 time salaried public employee of a governmental entity, or a
13 certified part-time salaried police officer employed by a
14 governmental entity, whose principal duties under law are to
15 hold in custody any person accused of a criminal offense, to
16 maintain public order or to make arrests for crimes, or members
17 of the national guard of New Mexico when called to active duty
18 by the governor;

19 (7) "officer-caused injury or death" means an
20 event during which a law enforcement officer:

21 (a) discharges a firearm, actually or
22 proximately causing injury or death to another;

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

25 (c) uses a chokehold, discharges tear

1 gas or other chemical weapon, discharges rubber pellets or
2 bullets from a propulsion device or attacks a person using a
3 dog, actually or proximately causing injury or death of a
4 person; or

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

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

10 (a) permanent disfigurement;

11 (b) protracted loss or impairment of a
12 bodily function, limb or organ; or

13 (c) a substantial risk of death; and

14 (9) "stun gun" means a portable device or
15 weapon, regardless of whether it passes an electrical shock by
16 means of a dart or projectile via a wire lead, from which an
17 electrical current, impulse, wave or beam that is designed to
18 incapacitate temporarily, injure or kill may be directed."

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

21 "30-2-6. JUSTIFIABLE HOMICIDE BY PUBLIC OFFICER OR PUBLIC
22 EMPLOYEE.--

23 A. Homicide is justifiable when committed by a
24 public officer or public employee or those acting by their
25 command and in their aid and assistance:

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

3 (2) when necessarily committed in overcoming
4 actual resistance to the execution of some legal process or to
5 the discharge of any other legal duty;

6 (3) when necessarily committed in retaking
7 felons who have been rescued or who have escaped or when
8 necessarily committed in arresting felons fleeing from justice;
9 or

10 (4) when necessarily committed in order to
11 prevent the escape of a felon from any place of lawful custody
12 or confinement.

13 B. ~~[For the purposes of this section, homicide is~~
14 ~~"necessarily committed" when a public officer or public~~
15 ~~employee has probable cause to believe he or another is~~
16 ~~threatened with serious harm or deadly force while performing~~
17 ~~those lawful duties described in this section. Whenever~~
18 ~~feasible, a public officer or employee should give warning~~
19 ~~prior to using deadly force.] Homicide is "necessarily~~

20 committed" only if a public officer or public employee complied
21 with the provisions of Section 6 of this 2021 act."

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

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

2 A. "chokehold" means the use of the lateral
3 vascular neck restraint, carotid restraint, chokehold, neck
4 hold or any other action that involves placing any part of an
5 officer's body on or around a person's neck;

6 B. "deadly physical force" means physical force
7 that can be reasonably expected to cause death or serious
8 physical injury;

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

20 D. "firearm" means any weapon that will or is
21 designed to or may readily be converted to expel a projectile
22 by the action of an explosion or the frame or receiver of any
23 such weapon;

24 E. "imminent harm" means when a person creating a
25 risk has the present ability, opportunity and apparent intent

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1 to immediately cause serious physical injury or death; provided
2 that imminent harm shall not be merely a fear of future harm
3 but is a risk that, based on the information available at the
4 time, must be instantly confronted and addressed;

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

8 G. "law enforcement officer" means a full-time
9 salaried public employee of a governmental entity, or a
10 certified part-time salaried police officer employed by a
11 governmental entity, whose principal duties under law are to
12 hold in custody any person accused of a criminal offense, to
13 maintain public order or to make arrests for crimes, or members
14 of the national guard of New Mexico when called to active duty
15 by the governor;

16 H. "necessary" means when, after all available
17 alternatives have been exhausted, no available, effective
18 alternative was known or should have been known to a reasonable
19 person in the circumstances, without regard to the subjective
20 beliefs of the law enforcement officer;

21 I. "proportional" means not excessive in relation
22 to a direct and legitimate law enforcement objective;

23 J. "stun gun" means a portable device or weapon,
24 regardless of whether it passes an electrical shock by means of
25 a dart or projectile via a wire lead, from which an electrical

1 current, impulse, wave or beam that is designed to incapacitate
2 temporarily, injure or kill may be directed; and

3 K. "totality of the circumstances" means the entire
4 duration of an interaction between law enforcement officers and
5 a victim of force, from the first contact through the
6 conclusion of the incident, including consideration of
7 contextual factors the law enforcement officer knew or should
8 have known during such interaction, including:

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

12 (2) whether the law enforcement officer
13 attempted de-escalation tactics and techniques during the
14 interaction;

15 (3) whether the law enforcement officer failed
16 to identify as a law enforcement officer to the victim of
17 force;

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

21 (5) whether the law enforcement officer made
22 reasonable accommodations in light of the victim of force's
23 physical disability, mental illness, developmental or
24 neurological condition or disability, drug interactions,
25 linguistic limitations, then-existing mental, emotional or

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1 physical condition or other characteristics that may have
2 interfered with the victim of force's ability to cooperate or
3 comply with a law enforcement officer's instructions;

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

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

10 (8) whether the law enforcement officer
11 exacerbated the injury sustained by the victim of force by
12 subsequent actions."

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

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

17 B. A law enforcement officer shall not use physical
18 force upon another person unless the officer has exhausted
19 de-escalation tactics and techniques and, based on the totality
20 of the circumstances, such force is proportionate and necessary
21 to:

22 (1) prevent an imminent threat to an
23 identifiable person, where the amount of force used is
24 proportional to the threat of imminent harm to the identifiable
25 person;

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

4 (3) prevent the escape from custody of a
5 person whom the law enforcement officer has probable cause to
6 believe has committed an offense, unless the law enforcement
7 officer knows that the custody is unauthorized.

8 C. Law enforcement officers shall use physical
9 force only to the extent the use of force accomplishes a
10 legitimate law enforcement objective. A law enforcement
11 officer shall immediately modulate the use of physical force as
12 the threat diminishes and shall cease the use of physical force
13 as soon as possible after:

14 (1) the person upon whom the physical force is
15 being used:

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

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

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

22 D. A law enforcement officer shall not use deadly
23 physical force upon another person unless it is used as a last
24 resort, after the officer has exhausted de-escalation tactics
25 and techniques and, based on the totality of the circumstances,

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1 such force is necessary to prevent imminent death or serious
2 physical injury to an identifiable person and the amount of
3 force used is proportional to the threat of imminent harm to an
4 identifiable person. The use of deadly force shall not present
5 a threat of serious physical injury to a third person.

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

8 F. Each application of force shall be evaluated
9 independently as a separate use of force to be separately
10 justified as lawful pursuant to the provisions of this section.

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

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

23 H. A law enforcement officer shall not
24 intentionally position the officer's body or vehicle in front
25 of a fleeing motor vehicle, unless such action is a tactic

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1 approved by the law enforcement agency that employs the
2 officer. A law enforcement officer moving into or remaining in
3 the path of a moving vehicle, whether deliberate or
4 inadvertent, shall not be justification for discharging a
5 firearm at the vehicle or any of its occupants or any other use
6 of physical or deadly physical force. A law enforcement
7 officer in the path of an approaching vehicle shall attempt to
8 move to a position of safety rather than discharge a firearm at
9 the vehicle or any of the occupants of the vehicle.

10 I. A law enforcement officer shall not use a
11 chokehold.

12 J. A law enforcement officer shall not discharge
13 tear gas or other chemical weapons.

14 K. A law enforcement officer shall not discharge
15 rubber pellets from a propulsion device.

16 L. A law enforcement officer shall not direct a dog
17 to bite a person.

18 M. Notwithstanding the standards described above in
19 Subsections B through L of this section, an otherwise lawful
20 use of force shall be unlawful if it is motivated in
21 substantial part by anger, malice, retaliation or any other
22 intent unrelated to a law enforcement purpose.

23 N. If a law enforcement officer used physical force
24 in violation of this section, the law enforcement officer shall
25 be immediately disciplined and, depending on the seriousness of

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1 the violation, may be decommissioned and terminated from the
2 officer's position. Upon a finding by a court, the secretary
3 of public safety or the head of any law enforcement agency that
4 a law enforcement officer used physical force, including deadly
5 physical force, in violation of this section, which resulted in
6 serious bodily injury or death, or that the law enforcement
7 officer violated Subsections I through L of this section, the
8 law enforcement officer shall be immediately decommissioned,
9 terminated from the officer's position and disqualified from
10 future employment as a law enforcement officer in New Mexico.

11 O. To the extent an employment contract conflicts
12 with the provisions of this section, the contract shall be
13 amended at the earliest available opportunity to conform with
14 this section.

15 P. A law enforcement officer who uses force against
16 a person in a manner inconsistent with the provisions of this
17 section that does not result in death may be charged with
18 battery or aggravated battery pursuant to the provisions of
19 Sections 30-3-4 and 30-3-5 NMSA 1978.

20 Q. A law enforcement officer who uses force against
21 a person in a manner inconsistent with the provisions of this
22 section that results in death may be charged with manslaughter
23 or murder pursuant to the provisions of Chapter 30, Article 2
24 NMSA 1978.

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

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1 A. A law enforcement officer present and observing
2 another officer using physical force, including deadly physical
3 force, that appears to be beyond that which is lawful based on
4 the totality of the circumstances shall intercede to prevent
5 the use of excessive force, unless interceding would result in
6 imminent harm to the officer or another identifiable
7 individual.

8 B. A law enforcement officer who observes another
9 officer using physical force, including deadly physical force,
10 that appears to be beyond that which is lawful based on the
11 totality of the circumstances shall report the incident to the
12 officer's direct supervisor as soon as reasonably possible but
13 no later than the end of the officer's shift. The officer
14 shall prepare a detailed written statement describing the
15 incident consistent with the uniform protocols set forth in
16 Subsection A of Section 2 of this 2021 act. The officer's
17 written statement shall be included in the supervisor's report.

18 C. All persons in New Mexico have a right to the
19 intervention of officers in the circumstances set forth in this
20 section. An officer who had a duty to intervene and failed to
21 do so shall be disciplined and, depending on the seriousness of
22 the violation, may be decommissioned and terminated from the
23 officer's position. An officer who had a duty to intervene and
24 failed to do so may be held liable, jointly and severally with
25 any officer who used unreasonable force for any injuries or

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1 death caused by such officer's unreasonable use of force.

2 SECTION 8. [NEW MATERIAL] REQUIRING USE OF FORCE

3 POLICIES--PUBLISHING POLICIES.--

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

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

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

11 (2) procedures to determine the appropriate
12 level of force to be used in particular situations, with
13 examples;

14 (3) a ban on the use of chokeholds, the
15 discharge of tear gas or other chemical weapons, the discharge
16 of rubber pellets from a propulsion device or attacking a
17 person using a dog;

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

20 (5) clear limits on the use of force pursuant
21 to Section 6 of this 2021 act, ensuring that less than deadly
22 physical force is used only to the extent that it is
23 proportionate and the least amount of force necessary to
24 achieve its lawful objective and that deadly physical force is
25 only used as a last resort when necessary to defend against

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1 imminent threats to human life;

2 (6) the duty of officers to intervene pursuant
3 to Section 7 of this 2021 act; and

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

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

11 SECTION 9. [NEW MATERIAL] SEARCH WARRANTS--REQUIRING
12 KNOCK AND ANNOUNCE--SHOWING SEARCH WARRANT--PROVIDING A
13 PENALTY.--

14 A. A law enforcement officer executing a search
15 warrant shall knock and announce the officer's presence and
16 purpose before forcibly entering a residence. An officer shall
17 not dispense with the requirement of this subsection in any
18 circumstances. An officer shall not seek, execute or
19 participate in the execution of a search warrant in which the
20 executing officers do not knock and announce their presence and
21 purpose.

22 B. When executing a search warrant, a law
23 enforcement officer shall be recognizable and identifiable as a
24 uniformed law enforcement officer. The officer shall provide
25 audible notice of the officer's authority and purpose in a

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1 manner reasonably expected to be heard by occupants of such
2 place to be searched prior to the execution of such search
3 warrant.

4 C. After entering and securing the place to be
5 searched, and prior to undertaking any search or seizure
6 pursuant to the search warrant, the executing law enforcement
7 officer shall read and give a copy of the search warrant to the
8 person to be searched or the owner of the place to be searched
9 or, if the owner is not present, to any occupant of the place
10 to be searched. If the place to be searched is unoccupied, the
11 executing law enforcement officer shall leave a copy of the
12 search warrant suitably affixed to the place to be searched.

13 D. A law enforcement officer charged with the
14 execution of a search warrant shall be accompanied only by such
15 other persons as may be reasonably necessary for the successful
16 execution of the search warrant with all practicable safety.

17 E. A law enforcement officer entering a premises
18 pursuant to a search warrant shall not be armed with
19 specialized, military-style equipment, including assault
20 rifles, submachine guns, shotguns, flash bang stun grenades or
21 other stun agents, except when expressly authorized by the
22 search warrant upon a showing of particularized suspicion that
23 an occupant of the target premises is in actual possession of
24 deadly weaponry and the use of specialized weaponry by law
25 enforcement officers is likely to be necessary.

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

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

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

11 (3) clearly and verbally announce that the
12 occupants must open the door pursuant to the search warrant and
13 that force may be used if the occupants fail to respond; and

14 (4) wait a minimum of forty-five seconds for
15 occupants to respond before entering the premises by force.

16 G. Evidence seized or obtained shall be
17 inadmissible if subsequent judicial review determines that a
18 law enforcement officer did not comply with Subsections A
19 through F of this section.