

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 462 Session of 2023

INTRODUCED BY KINSEY, DAWKINS, SCOTT, HILL-EVANS, MADDEN, FIEDLER, RABB, SCHLOSSBERG, KHAN, FREEMAN, KAZEEM, SANCHEZ, KINKEAD, PARKER, STURLA, OTTEN, D. WILLIAMS, BELLMON, PROBST, WARREN, CONKLIN, KRAJEWSKI, GREEN AND FRANKEL, MARCH 16, 2023

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 18, 2023

AN ACT

1 Amending ~~Title~~ TITLES 44 (Law and Justice) AND 53 <--
2 (MUNICIPALITIES GENERALLY) of the Pennsylvania Consolidated
3 Statutes, providing for actions by law enforcement; AND, IN <--
4 EMPLOYEES, PROVIDING FOR USE OF FORCE RECORDKEEPING AND
5 REPORTING FOR LAW ENFORCEMENT AGENCIES.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 44 of the Pennsylvania Consolidated
9 Statutes is amended by adding a part to read:

10 PART V

11 ACTIONS BY LAW ENFORCEMENT

12 Chapter

13 91. Use of Force

14 CHAPTER 91

15 USE OF FORCE

16 Sec.

17 9101. Prohibition.

18 § 9101. Prohibition.

1 (a) General rule.--Notwithstanding 18 Pa.C.S. § 508
2 (relating to use of force in law enforcement) and except as
3 provided under subsection (b), in making an arrest a
4 Pennsylvania State Police officer or municipal police officer:

5 (1) May not:

6 (i) apply the use of a chokehold;

7 (ii) apply any pressure to the diaphragm, airways or
8 any compression that inhibits breath or the flow of blood
9 to the brain of the person; or

10 (iii) hold the person in prone restraint or facedown
11 while restrained for a period of time exceeding three
12 minutes or as practical as to avoid positional asphyxia.

13 (2) May not keep the person in prone restraint or a
14 facedown position once the person is restrained.

15 (b) Application.--The prohibitions under subsection (a)
16 shall not apply when the use of deadly force is permitted under
17 law.

18 (c) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this
20 subsection unless the context clearly indicates otherwise:

21 "Prone restraint." All items or measures used to restrain a
22 person in a facedown position.

23 SECTION 2. THE HEADING OF SUBCHAPTER B OF CHAPTER 21 OF <--
24 TITLE 53 IS AMENDED TO READ:

25 SUBCHAPTER B

26 [(RESERVED)]

27 USE OF FORCE

28 RECORDKEEPING AND REPORTING

29 FOR LAW ENFORCEMENT AGENCIES

30 SECTION 3. SUBCHAPTER B OF CHAPTER 21 OF TITLE 53 IS AMENDED

1 BY ADDING SECTIONS TO READ:

2 § 2131. POLICY.

3 IT IS THE POLICY OF THE COMMONWEALTH TO PROVIDE LAW
4 ENFORCEMENT AGENCIES WITH RECORDKEEPING AND REPORTING
5 REQUIREMENTS REGARDING THE USE OF FORCE AND DEADLY FORCE BY LAW
6 ENFORCEMENT OFFICERS.

7 § 2132. DEFINITIONS.

8 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
9 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
10 CONTEXT CLEARLY INDICATES OTHERWISE:

11 "COMMISSION." THE MUNICIPAL POLICE OFFICERS' EDUCATION AND
12 TRAINING COMMISSION.

13 "COMMISSIONER." THE COMMISSIONER OF PENNSYLVANIA STATE
14 POLICE.

15 "FORCE." EFFORTS USED BY A LAW ENFORCEMENT OFFICER THAT MAY
16 RESULT IN SERIOUS BODILY INJURY OR DEATH WHEN USED TO:

17 (1) EFFECTUATE AN ARREST.

18 (2) OVERCOME RESISTANCE OR THREATENED RESISTANCE TO
19 EFFECTUATE AN ARREST.

20 (3) PROTECT THE ARRESTING OFFICER OR ANY OTHER PERSON
21 FROM INJURY OR DEATH.

22 "LAW ENFORCEMENT AGENCY." A LAW ENFORCEMENT AGENCY IN THIS
23 COMMONWEALTH THAT IS THE EMPLOYER OF A LAW ENFORCEMENT OFFICER.

24 "LAW ENFORCEMENT OFFICER." THE TERM SHALL HAVE THE SAME
25 MEANING AS THE TERM "PEACE OFFICER" UNDER 18 PA.C.S. § 501
26 (RELATING TO DEFINITIONS).

27 "SERIOUS BODILY INJURY." BODILY INJURY THAT CREATES A
28 SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT
29 DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION
30 OF A BODILY MEMBER OR ORGAN.

1 § 2133. RECORDKEEPING.

2 (A) GENERAL RULE.--EACH LAW ENFORCEMENT AGENCY SHALL
3 MAINTAIN RECORDS OF ALL INCIDENTS INVOLVING A USE OF FORCE BY A
4 LAW ENFORCEMENT OFFICER.

5 (B) PROCEDURE.--THE COMMISSIONER, IN CONSULTATION WITH THE
6 PENNSYLVANIA CHIEFS OF POLICE ASSOCIATION AND THE FRATERNAL
7 ORDER OF POLICE, SHALL DEVELOP A REPORTING MECHANISM EACH LAW
8 ENFORCEMENT AGENCY MUST COMPLY WITH AND SUBMIT RECORDS OF ALL
9 USE OF FORCE INCIDENTS. THE COMMISSIONER, WITH THE APPROVAL OF
10 THE COMMISSION, SHALL DETERMINE THE MOST EFFICIENT AND LEAST
11 BURDENSOME PROCEDURE FOR WHICH THIS REPORTING REQUIREMENT SHALL
12 BE IMPLEMENTED, ADMINISTERED AND MAINTAINED. THIS PROCEDURE MAY
13 BE INCORPORATED AT THE DISCRETION OF THE COMMISSIONER WITHIN
14 EXISTING OR FORTHCOMING UNIFORM CRIME REPORTING FUNCTIONS,
15 INCLUDING A NATIONAL INCIDENT-BASED REPORTING SYSTEM.

16 (C) CONTENT.--THE REPORT SHALL INCLUDE THE FOLLOWING
17 INFORMATION:

- 18 (1) REASON FOR USE OF FORCE.
19 (2) PERSONAL INJURIES, IF ANY.
20 (3) PROPERTY DAMAGE, IF ANY.
21 (4) DEATHS, IF ANY.
22 (5) SUSPECT INFORMATION, INCLUDING STATUTE VIOLATIONS
23 AND APPREHENSION STATUS OF THE SUSPECT.

24 (D) IMPLEMENTATION.--THE COMMISSIONER MAY IMPLEMENT THE
25 REPORTING REQUIREMENTS TO COINCIDE WITH THE TIMING OF THE
26 IMPLEMENTATION OF A NATIONAL INCIDENT-BASED REPORTING SYSTEM
27 WITHIN THIS COMMONWEALTH.

28 § 2134. PENNSYLVANIA STATE POLICE REPORT.

29 (A) ANNUAL REPORT.--THE PENNSYLVANIA STATE POLICE SHALL
30 COMPILE DATA SENT BY INDIVIDUAL AGENCIES ON AN ANNUAL BASIS. THE

1 PENNSYLVANIA STATE POLICE SHALL MAKE AN ANNUAL REPORT BASED ON
2 STATEWIDE DATA TO THE OFFICE OF ATTORNEY GENERAL, THE JUDICIARY
3 COMMITTEE OF THE SENATE, THE JUDICIARY COMMITTEE OF THE HOUSE OF
4 REPRESENTATIVES AND THE LAW AND JUSTICE COMMITTEE OF THE SENATE.

5 (B) CONTENTS.--THE STATEWIDE REPORT SHALL INCLUDE THE
6 FOLLOWING INFORMATION:

7 (1) STATEWIDE AGGREGATIONS OF INFORMATION COLLECTED
8 UNDER SECTION 2133(C) (RELATING TO RECORDKEEPING).

9 (2) THE TOTAL NUMBER AND PERCENTAGE OF INCIDENTS
10 INVOLVING THE USE OF FORCE.

11 (3) THE TOTAL NUMBER AND PERCENTAGE OF INCIDENTS
12 INVOLVING THE USE OF FORCE RESULTING IN SERIOUS BODILY
13 INJURY.

14 (4) THE TOTAL NUMBER AND PERCENTAGE OF INCIDENTS
15 INVOLVING THE USE OF FORCE RESULTING IN DEATH.

16 (C) SUBMISSION OF ANNUAL REPORT.--THE PENNSYLVANIA STATE
17 POLICE SHALL SUBMIT THE FIRST ANNUAL REPORT AFTER THE FIRST FULL
18 CALENDAR YEAR OF DATA COLLECTION.

19 Section 2 4. This act shall take effect in 60 days.

<--