

HB 405 -- LAW ENFORCEMENT AGENCY ACCOUNTABILITY

SPONSOR: Aldridge

NO-KNOCK WARRANTS (Sections 105.240, 542.271, 542.276, 542.291, 542.296, and 544.200, RSMo)

Under current law, officers may break open doors and enclosures to execute a warrant or other process for the arrest of any person. This bill modifies these provisions to provide that any search warrant that is issued by a judge and that does not require officers executing the warrant to knock may only be used if there is a reasonable suspicion that the suspect of a violent felony offense will escape or cause bodily harm to others.

Under current law, a search must be conducted in a reasonable manner. This bill modifies this provision to provide that a search is not conducted in a reasonable manner if the search is conducted without the officer knocking and announcing his or her presence unless the officer has a reasonable suspicion that the suspect of a violent felony offense will escape or cause bodily harm to others. Additionally, this bill provides that a warrant is invalid on its face if it expressly or implicitly authorizes officers to execute the warrant without knocking unless the officer has a reasonable suspicion that the suspect of a violent felony offense will escape or cause bodily harm to others.

Finally, a person may make a motion at trial to suppress evidence if the search warrant was illegally executed, which includes if such warrant was executed without the officer knocking and providing notice of his or her authority and purpose.

USE OF FORCE BY PRIVATE CITIZEN (Sections 563.031, 563.041, and 563.051)

This bill provides that an individual who is justified under the law to use physical force in self defense or defense of property shall also be justified in detaining an aggressor until the arrival of law enforcement. However, if the aggressor flees, whether before or after being detained, the individual shall not be justified in pursuing the aggressor and shall be denied an absolute defense with respect to any force used against the aggressor during or after the pursuit of such aggressor.

This bill repeals current law regarding the arrest of a person by a private citizen using physical force.

USE OF FORCE BY A LAW ENFORCEMENT OFFICER (Sections 544.190 and 563.046)

Under current law, if a person flees or forcibly resists, an officer may use all necessary means to effect an arrest. This bill provides that an officer shall not use deadly force to effect an arrest unless a person is displaying aggravated aggressive resistance and the officer has an objectively reasonable belief that the person poses an imminent threat to the officer or others or to prevent the escape of a person suspected of a violent felony offense if the officer has probable cause to believe the suspect poses a threat to the officer or others. Additionally, the officer must first use less intrusive methods to detain a person unless the officer reasonably determines such methods would be ineffective.

This bill provides that, prior to using force to effect an arrest, an officer must identify himself or herself and give a person the opportunity to submit to arrest before force is used. Additionally, an officer shall not use force against a person already restrained or to punish or as retaliation.

Under current law, a law enforcement officer need not retreat or desist from efforts to effect an arrest if he or she reasonably believes such person has committed an offense. An officer may use any physical force in making a lawful arrest and the amount of physical force used must be objectively reasonable in light of the totality of the particular facts and circumstances confronting the officer on the scene, without regard to the officer's underlying intent or motivation.

This bill provides that the use of a carotid restraint or chokehold in making an arrest is not justified physical force unless it is a circumstance under which deadly force is lawful.

Under current law, a law enforcement officer is justified in using deadly force if such deadly force was justified under the law or if the officer reasonably believes that such use of deadly force is immediately necessary to effect the arrest of a person or prevent an escape from custody and reasonably believes such person:

- (1) Has committed a felony offense involving serious physical injury;
- (2) Is attempting to escape by use of a deadly weapon; or
- (3) Otherwise is endangering the life of the officer or others unless arrested without delay.

This bill modifies this provision to provide that a law enforcement officer is only justified in using deadly force if the law enforcement officer reasonably believes, based on the totality of

the circumstances, that it is necessary to protect the law enforcement officer or another from imminent death or great bodily harm or to effect the arrest of a person whom the law enforcement officer knows or has reasonable grounds to believe has committed or attempted to commit a felony offense involving the infliction or threatened infliction of serious physical injury and the officer reasonably believes that the person will cause death or great bodily harm to another person unless immediately apprehended.

Additionally, a law enforcement officer shall not use deadly force against a person based on the danger the person poses to the law enforcement officer if an objectively reasonable law enforcement officer would believe the person does not pose an imminent threat of death or great bodily harm to the law enforcement officer or to another person.

Finally, a law enforcement officer shall have the duty to intervene at any scene where physical force is being applied in which such force is inappropriately applied or is no longer required. A law enforcement officer who purposefully allows another officer to use inappropriate force shall be guilty of a class E felony.

#### ATTORNEYS FEES (Section 563.074)

Under current law, a law enforcement officer who used force to make an arrest may be awarded attorneys fees if he or she can prove justification for such force.

This bill modifies this provision to no longer allow attorneys fees to be awarded in such cases.

#### SEXUAL MISCONDUCT OF POLICE OFFICERS (Section 566.145)

This bill provides that a police officer who engages in sexual conduct with a detainee or prisoner who is in the custody of such officer shall be guilty of a class E felony.

#### USE OF CHEMICAL AGENTS (Section 574.055)

A law enforcement agency, when using chemical agents, shall only use such chemical agents after a person has caused or attempted to cause serious physical injury to another person. A law enforcement agency shall provide a warning before deploying a chemical agent and shall require law enforcement officers to wear badges affixed to a uniform or helmet even if officers are wearing riot gear. A law enforcement agency shall not use chemical agents against individuals who fail to disperse but have not caused physical injury to another person or on a person who is restrained. Additionally, officers shall not block any routes of egress prior

to the deployment of a chemical agent.

#### OFFENSE OF FAILURE TO EXECUTE A WARRANT (Section 575.180)

This bill provides that it shall be an affirmative defense that a law enforcement officer acted under exigent circumstances in failing to execute an arrest warrant on a person who has committed certain misdemeanor or traffic offenses .

#### DEFINITIONS (Section 590.010)

This bill adds the definitions of "carotid restraint", "chokehold", and "security guard" to provisions relating to the training and discipline of peace officers.

#### POST COMMISSION TRAINING MATERIALS (Section 590.030)

Under current law, the Peace Officer Standards and Training (POST) Commission establishes minimum standards for the basic training of peace officers. This bill modifies these provisions to require the Director of the Department of Public Safety to review all training materials, licenses of law enforcement basic training centers, and basic training instructors of the POST Commission. The Director shall conduct reviews as provided in the bill. Additionally, this bill requires training in de-escalation and community policing tactics.

#### BASIC TRAINING OF PEACE OFFICERS (Section 590.040)

This bill adds peace officer training certification requirements, which shall include de-escalation training and the use of body-worn cameras. Additionally, the basic training of every peace officer shall prohibit the use of maneuvers that restrict blood or oxygen flow to the brain, or prevents or hinders breathing or reduces the intake of air, such as knee-holds, chokeholds, or similar acts of applying force or pressure to the neck, unless deadly force is necessary and lawful.

#### DISCIPLINARY ACTIONS OF PEACE OFFICERS (Section 590.080)

This bill provides that the Director shall have cause to discipline any peace officer licensee who has applied a carotid restraint or chokehold in the course of his or her duties as a peace officer when the use of deadly force was not lawful, regardless of whether the application of the carotid restraint resulted in serious injury or death and regardless of whether the officer is criminally prosecuted.

Additionally, the Director shall produce an annual public report

including a list of officers from each law enforcement agency whose licenses are on probation, suspended, or revoked and post such report on the Department's website.

#### LICENSURE STATUS OF OFFICERS MAKING ARRESTS (Section 590.180)

This bill repeals the provision that no arrest shall be deemed unlawful solely because of the licensure status of a peace officer.

#### VIOLATIONS OF LAW ENFORCEMENT AGENCIES (Section 590.195)

This bill provides that a law enforcement agency shall be subject to a fine of \$1,000 each day the agency commissions a peace officer in violation of the law.

#### USE OF MILITARY EQUIPMENT BY LAW ENFORCEMENT AGENCIES (Section 590.230)

A law enforcement agency shall not receive certain military equipment, such as armored drones or militarized armored vehicles, from a military equipment surplus program operated by the federal government.

If a law enforcement agency purchases any military equipment from a surplus program, the agency may only use state or local funds. If a law enforcement agency requests military equipment, such agency shall publish a notice of the request on a public website within 14 days.

#### WRITTEN POLICIES OF LAW ENFORCEMENT AGENCIES (Section 590.510)

Every law enforcement agency shall have a written policy regarding the investigation of an officer-involved death. Such written policy shall require certain investigatory measures as provided in the bill. The investigators conducting an investigation shall provide a complete report to the prosecutor of the county in which the death occurred.

#### CERTIFICATION OF OUT OF STATE OFFICERS (Section 590.520)

This bill provides that a law enforcement officer who is certified in another state shall submit a preliminary application for certification before beginning employment with a law enforcement agency in this state. A law enforcement agency shall deny an officer's preliminary application if an officer has pled guilty to or been convicted of a felony, has had his or her certification revoked in another state, has been discharged for serious misconduct, or has been laid off after a disciplinary investigation involving serious misconduct.

PROHIBITION OF CAROTID RESTRAINTS AND CHOKEHOLDS (Section 590.651)

This bill provides that all law enforcement agencies shall prohibit the use of a carotid restraint or chokehold unless it is in a circumstance under which deadly force is lawful. The use of such restraints shall be defined as deadly force under the law and shall be reported to the Attorney General for publication.

LAW ENFORCEMENT AGENCY REQUIREMENTS FOR FIREARMS (Section 590.652)

This bill provides that law enforcement agencies shall adopt certain requirements regarding weapons and the use of force by officers. Officers must complete a yearly firearms certification and if an officer fails to complete the certification he or she must relinquish all agency-issued firearms. Any law enforcement agency found to permit officers to carry an unauthorized firearm shall be fined as provided in the bill

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Additionally, law enforcement agencies shall require officers to report a reasonable justification for each shot fired as a separate incident of use of force.

OFFENSE OF AGGRAVATED STRANGULATION (Section 590.654 and 590.655)

This bill creates the offense of aggravated strangulation in the first degree by a peace officer or security guard. Any peace officer or security guard, while in the performance of his or her official duties, who uses a carotid restraint or chokehold and causes death to another person in circumstances in which the use of deadly force, according to a reasonable person, is not justified shall be guilty of aggravated strangulation in the first degree. The offense of aggravated strangulation in the first degree shall be a class A felony.

The bill also creates the offense of aggravated strangulation in the second degree by a peace officer or security guard. Any peace officer or security guard, while in the performance of his or her official duties, who uses a carotid restraint or chokehold and causes serious physical injury to another person in circumstances in which the use of physical force, according to a reasonable person, is not justified shall be guilty of aggravated strangulation in the second degree. The offense of aggravated strangulation in the second degree shall be a class B felony.

EXCESSIVE FORCE COMPLAINTS (Section 590.656)

Each state and local law enforcement agency shall send a report of all complaints alleging excessive use of force to the Attorney

General. The report shall include information regarding the age, gender, and race of the individual alleging the complaint. Additionally, each state and local law enforcement agency shall send a report to the Attorney General of all instances of deadly force by law enforcement officers.

This bill is similar to SB 16 (2020 1st Extraordinary Session).