

HOUSE BILL 1406

By Curcio

AN ACT to amend Tennessee Code Annotated, Title 38;
Title 39 and Title 40, relative to criminal justice.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-3-121, is amended by deleting the section and substituting the following:

A law enforcement officer shall not use a choke hold, as defined in § 38-8-101, with or without the use of a police baton, on any person unless the officer reasonably believes that deadly force is authorized pursuant to § 39-11-620.

SECTION 2. Tennessee Code Annotated, Section 38-8-101, is amended by adding the following language as a new subdivision:

() "Choke hold" means an intentional use of pressure or constriction to the neck, throat, or windpipe intended to inhibit breathing;

SECTION 3. Tennessee Code Annotated, Section 38-8-113, is amended by deleting the section and substituting the following:

Use of a choke hold, with or without the use of a police baton, must be taught to candidates at state law enforcement training facilities as a method of restraint to be used only if the officer reasonably believes that deadly force is authorized pursuant to § 39-11-620.

SECTION 4. Tennessee Code Annotated, Title 38, Chapter 8, Part 1, is amended by adding the following as new sections:

38-8-127. De-escalation.

By January 1, 2022, each law enforcement agency shall develop a policy regarding de-escalation. Each agency shall provide training to officers on de-escalation techniques, including, but not limited to:

- (1) Verbal de-escalation and the effective delivery of verbal instructions to prevent the need for physical use of force;
- (2) Application of reasonable and proportional use of force based upon the totality of the circumstances;
- (3) De-escalation in circumstances of decreased resistance or compliance by a subject;
- (4) Allowing a suspect time to submit to arrest before force is used, when possible; and
- (5) Tactical repositioning, requesting additional personnel, and other similar techniques to decrease the need for physical use of force.

38-8-128. Duty to intervene.

(a) A law enforcement officer who directly observes or has knowledge of excessive use of force by another law enforcement officer in violation of state or federal law shall, within the officer's scope of training, knowledge, and authority, intervene when the officer has an opportunity and means to prevent the harm from occurring. A law enforcement officer who intervenes during an excessive force incident shall report the circumstances to a supervisor as soon as practical.

(b) A law enforcement officer who has direct knowledge of excessive use of force by another law enforcement officer in violation of state or federal law shall, as soon as practical, report the excessive use of force to a supervisor.

(c) A law enforcement agency is prohibited from retaliating against any officer who intervenes against excessive use of force, reports excessive use of force, or cooperates in an internal investigation related to the excessive use of force.

38-8-129. Shooting at moving vehicles.

By January 1, 2022, each law enforcement agency shall develop a policy that limits the circumstances under which an officer may discharge a firearm at or from a moving vehicle, motorcycle, or bicycle to when the officer reasonably believes that deadly force is authorized as provided in § 39-11-620.

38-8-130. Use of force reporting.

(a) By January 1, 2022, each law enforcement agency shall establish a use of force reporting system that allows for the agency to effectively review and analyze all use of force incidents.

(b) The reporting system must be designed to help the agency identify trends, improve officer training and safety, and provide timely and accurate information.

SECTION 5. Tennessee Code Annotated, Section 40-6-105, is amended by deleting the section and substituting the following:

40-6-105.

(a) The magistrate, if satisfied of the existence of the grounds of the application, or that there is probable ground to believe their existence, shall issue a search warrant signed by the magistrate, directed to the sheriff, any constable, or any peace officer, commanding the sheriff, constable, or peace officer immediately to search the person or place named for the property specified, and to bring it before the magistrate.

(b) A magistrate shall not issue a "no knock" search warrant, which expressly authorizes a peace officer to dispense with the requirement to knock and announce the peace officer's presence prior to execution of the warrant.

SECTION 6. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 7. This act takes effect upon becoming a law, the public welfare requiring it.