

1 **USE OF FORCE REVISIONS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kera Birkeland**

5 Senate Sponsor: Daniel McCay

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses the use of force by peace officers.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ sets a timeline for completion of investigations into an officer's use of force;
- 13 ▶ requires that certain information be posted online; and
- 14 ▶ makes technical corrections.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **76-2-408**, as last amended by Laws of Utah 2021, Chapter 150

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **76-2-408** is amended to read:

25 **76-2-408. Officer use of force -- Investigations.**

26 (1) As used in this section:

27 (a) "Dangerous weapon" means a firearm or an object that in the manner of its use or
28 intended use is capable of causing death or serious bodily injury to [~~a person~~] an individual.

29 (b) "Deadly force" means a force that creates or is likely to create, or that the [~~person~~]

30 individual using the force intends to create, a substantial likelihood of death or serious bodily
31 injury to [~~a person~~] an individual.

32 (c) "In custody" means in the legal custody of a state prison, county jail, or other
33 correctional facility, including custody that results from:

- 34 (i) a detention to secure attendance as a witness in a criminal case;
- 35 (ii) an arrest for or charging with a crime and committing for trial;
- 36 (iii) committing for contempt, upon civil process, or by other authority of law; or
- 37 (iv) sentencing to imprisonment on conviction of a crime.

38 (d) "Investigating agency" means a law enforcement agency, the county or district
39 attorney's office, or an interagency task force composed of officers from multiple law
40 enforcement agencies.

41 (e) "Officer" means an officer described in Section 53-13-102.

42 (f) "Officer-involved critical incident" means any of the following:

- 43 (i) an officer's use of deadly force;
- 44 (ii) an officer's use of a dangerous weapon against [~~a person~~] an individual who causes
45 injury to any [~~person~~] individual;
- 46 (iii) death or serious bodily injury to any [~~person~~] individual, other than the officer,
47 resulting from an officer's:

48 (A) use of a motor vehicle while the officer is on duty; or

49 (B) use of a government vehicle while the officer is off duty;

50 (iv) the death of [~~a person~~] an individual who is in custody, but excluding a death that
51 is the result of disease, natural causes, or conditions that have been medically diagnosed prior
52 to the [~~person's~~] individual's death; or

53 (v) the death of or serious bodily injury to [~~a person~~] an individual not in custody, other
54 than an officer, resulting from an officer's attempt to prevent [~~a person's~~] an individual's escape
55 from custody, to make an arrest, or otherwise to gain physical control of [~~a person~~] an
56 individual.

57 (g) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

58 (2) When an officer-involved critical incident occurs:
59 (a) upon receiving notice of the officer-involved critical incident, the law enforcement
60 agency having jurisdiction where the incident occurred shall, as soon as practical, notify the
61 county or district attorney having jurisdiction where the incident occurred; and
62 (b) the chief executive of the law enforcement agency and the county or district
63 attorney having jurisdiction where the incident occurred shall:
64 (i) jointly designate an investigating agency for the officer-involved critical incident;
65 and
66 (ii) designate which agency is the lead investigative agency if the officer-involved
67 critical incident involves multiple investigations.
68 (3) The investigating agency under Subsection (2) may not be the law enforcement
69 agency employing the officer who is alleged to have caused or contributed to the
70 officer-involved critical incident.
71 (4) This section does not preclude the law enforcement agency employing an officer
72 alleged to have caused or contributed to the officer-involved critical incident from conducting
73 an internal administrative investigation.
74 (5) Each law enforcement agency that is part of or administered by the state or any of
75 the state's political subdivisions shall adopt and post on the agency's publicly accessible
76 website:
77 (a) the policies and procedures the agency has adopted to select the investigating
78 agency if an officer-involved critical incident occurs in the agency's jurisdiction and one of the
79 agency's officers is alleged to have caused or contributed to the officer-involved incident; and
80 (b) the protocols the agency has adopted to ensure that any investigation of
81 officer-involved incidents occurring in the agency's jurisdiction are conducted professionally,
82 thoroughly, and impartially.
83 (6) Once a criminal investigation is turned over from law enforcement, the county or
84 district attorney's findings or analyses into an officer's use of force shall be completed within
85 180 days of the turnover. If the findings or analyses is not published within 180 days of the

86 turnover, the county or district attorney shall post a public statement on the county or district
87 attorney's website stating a reasonable estimate when the findings or analyses will be complete
88 and the reason for the delay.

89 (7) Subject to the requirements of Title 63G, Chapter 2, Government Records Access
90 and Management Act, the county or district attorney's resulting findings or analyses shall be
91 published on the county or district attorney's website within five business days of completion.