
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 45 Session of
2021

INTRODUCED BY HUGHES, FONTANA, KEARNEY, STREET, SCHWANK,
CAPPELLETTI AND COSTA, JANUARY 20, 2021

REFERRED TO LAW AND JUSTICE, JANUARY 20, 2021

AN ACT

1 Providing for the adoption of a Statewide model policy related
2 to the prevention of excessive force by law enforcement
3 officers and school security personnel.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the 8 Can't Wait
8 - Model Policy to Prevent Excessive Force Act.

9 Section 2. Legislative findings.

10 The General Assembly finds that:

11 (1) The authority of law enforcement officers and school
12 security personnel to use physical force is a serious
13 responsibility that must be exercised judiciously, with
14 respect for human rights, dignity and the sanctity of every
15 human life.

16 (2) Every individual has a right to be free from
17 excessive use of force by law enforcement officers and school
18 security personnel acting under color of law.

1 (3) Through enactment of a model policy the Commonwealth
2 can implement common-sense policing standards that can
3 prevent excessive force being used against our citizens and
4 in our communities.

5 (4) The law and policy created must be carefully
6 constructed and in a manner that thoughtfully reflects the
7 gravity of the serious consequences that excessive force by
8 law enforcement officers and school security personnel can
9 have.

10 Section 3. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Chokehold." A physical maneuver that restricts an
15 individual's ability to breathe for the purpose of
16 incapacitation.

17 "Commission." The Municipal Police Officers' Education and
18 Training Commission of the Commonwealth.

19 "Commissioner." The Commissioner of Pennsylvania State
20 Police.

21 "Community-based organization." A grassroots organization
22 that monitors the issue of police misconduct and reform measures
23 and has a national presence and membership. The term includes
24 the National Association for the Advancement of Colored People
25 (NAACP), the American Civil Liberties Union (ACLU) and the
26 National Council of La Raza.

27 "Deadly force." Force which, under the circumstances in
28 which it is used, is readily capable of causing death or serious
29 bodily injury.

30 "Force." Efforts used by a law enforcement officer that may

1 result in serious bodily injury or death when used to:

2 (1) Effectuate an arrest.

3 (2) Overcome resistance or threatened resistance to
4 effectuate an arrest.

5 (3) Protect the arresting officer or any other person
6 from injury or death.

7 "Law enforcement agency." A law enforcement agency in this
8 Commonwealth that is the employer of a law enforcement officer.

9 "Law enforcement officer." The term shall have the same
10 meaning as the term "peace officer" under 18 Pa.C.S. § 501
11 (relating to definitions).

12 "Professional law enforcement association." A law
13 enforcement membership association that works for the needs of
14 state or local law enforcement agencies. The term includes the
15 International Association of Chiefs of Police, the National
16 Sheriffs' Association, the Fraternal Order of Police and the
17 National Association of School Resource Officers.

18 "Reasonable alternatives." Tactics and methods used by a law
19 enforcement officer or school security personnel to effectuate
20 an arrest or detainment that do not unreasonably increase the
21 risk posed to the law enforcement officer or another individual,
22 including verbal communication, distance, warnings, de-
23 escalation tactics and techniques, tactical repositioning and
24 other tactics and techniques intended to stabilize the situation
25 and reduce the immediacy of the risk so that more time, options
26 and resources can be called upon to resolve the situation
27 without the use of a firearm, taser, explosive device, chemical
28 agent, baton, impact projectile, blunt instrument, hand, fist,
29 foot, canine or vehicle against an individual.

30 "School entity." The term shall have the same meaning as

1 defined under section 1301-C of the act of March 10, 1949
2 (P.L.30, No.14), known as the Public School Code of 1949.

3 "School police officer." As defined under section 1301-C of
4 the Public School Code of 1949.

5 "School resource officer." As defined under section 1301-C
6 of the Public School Code of 1949.

7 "School security guard." As defined under section 1301-C of
8 the Public School Code of 1949.

9 "School security personnel." School police officers, school
10 resource officers and school security guards.

11 "Serious bodily injury." Bodily injury that creates a
12 substantial risk of death or which causes serious, permanent
13 disfigurement or protracted loss or impairment of the function
14 of a bodily member or organ.

15 Section 4. Statewide model policy.

16 (a) Development.--Within 120 days of the effective date of
17 this subsection, the Attorney General, in consultation with the
18 commissioner, the commission, law enforcement agencies,
19 professional law enforcement associations and community-based
20 organizations shall promulgate a Statewide model policy to
21 prevent excessive force by law enforcement officers and school
22 security personnel within this Commonwealth. The Attorney
23 General shall seek public comment at least 20 days prior to
24 finalizing the Statewide model policy.

25 (b) Notification.--The Attorney General shall:

26 (1) Publicly and conspicuously post the promulgated
27 Statewide model policy on the Attorney General's publicly
28 accessible Internet website and provide notice of the
29 promulgation to the commissioner, the commission, law
30 enforcement agencies, professional law enforcement

1 associations and community-based organizations with whom the
2 Attorney General consulted.

3 (2) Notify and supply a copy of the policy to the:

4 (i) Governor.

5 (ii) General Assembly.

6 (c) Adoption.--The following apply:

7 (1) Sixty days following the promulgation of the
8 Statewide model policy by the Attorney General, except as
9 provided under paragraph (2), each law enforcement agency and
10 school entity shall adopt the Statewide model policy as a
11 written policy governing the procedures that law enforcement
12 officers and school security personnel shall comply with when
13 engaging with individuals, including bringing an incident
14 under control, making an arrest or protecting the officers,
15 security personnel or others.

16 (2) A law enforcement agency or school entity may
17 develop and adopt their own written policy provided the
18 policy developed contains, at a minimum, the components
19 specified in subsection (f).

20 (3) The Statewide model policy shall serve as a minimum
21 standard by which other policies are developed and reviewed.
22 The commission shall compile a list of all law enforcement
23 agencies and school entities that are required to adopt a
24 written policy under this section.

25 (4) Each law enforcement agency and any required school
26 entity shall certify to the commission their compliance with
27 this section and provide the commission with a copy of the
28 adopted policy.

29 (5) The commission shall review each adopted policy to
30 determine if the policy meets the minimum standards required.

1 The commission shall notify the Attorney General of any law
2 enforcement agencies or school entities that have failed to
3 comply with this section.

4 (d) Failure to comply.--If a law enforcement agency or
5 school entity fails to adopt a written policy as required under
6 subsection (c), the law enforcement agency or school entity
7 risks revocation or suspension of State appropriated money. The
8 Attorney General shall notify the Governor and the General
9 Assembly of any law enforcement agency or school entity that
10 fails to comply.

11 (e) Periodic review and training.--At least every two years,
12 the Attorney General shall review and update the Statewide model
13 policy as may be required. At least annually, the commissioner
14 and the commission shall review the training programs, for which
15 each is responsible, and ensure that law enforcement officers
16 and school security personnel are receiving training that is
17 consistent with the Statewide model policy.

18 (f) Components of policy.--The following apply:

19 (1) The Statewide model policy developed shall, at a
20 minimum:

21 (i) Require the use of de-escalation tactics and
22 techniques before using force.

23 (ii) Develop a force continuum or matrix that
24 defines and limits the types of force and specific
25 weapons that can be used to respond to specific levels of
26 resistance.

27 (iii) Ban chokeholds and strangleholds, including
28 carotid restraints.

29 (iv) Require a verbal warning be given, when
30 possible, before using deadly force.

1 (v) Prohibit shooting at individuals in moving
2 vehicles unless the individual poses a deadly threat by
3 means other than the vehicle.

4 (vi) Require the exhaustion of all reasonable
5 alternatives before resorting to using deadly force.

6 (vii) Establish a duty to intervene and stop other
7 law enforcement officers or school security personnel
8 from using excessive force, as well as immediately
9 reporting incidents to a supervisor.

10 (viii) Require reporting of uses of force, including
11 when force was threatened or attempted but not used.

12 (2) The policy developed must provide for the consistent
13 definition and use of the following terms:

14 (i) "De-escalation tactics and techniques."

15 (ii) "Duty to intervene."

16 (iii) "Excessive force."

17 (iv) Any other term that may require clarification
18 to ensure uniform understanding and use.

19 Section 5. Applicability.

20 This act applies to all law enforcement officers and school
21 security personnel within the jurisdiction of the Commonwealth.

22 Section 6. Exclusive jurisdiction.

23 The Supreme Court shall have exclusive jurisdiction to hear
24 any challenge to or to render a declaratory judgment concerning
25 the constitutionality of this act. The Supreme Court is
26 authorized to take such action as it deems appropriate,
27 consistent with the Supreme Court retaining jurisdiction, to
28 find facts or to expedite a final judgment in connection with
29 such a challenge or request for declaratory relief.

30 Section 7. Effective date.

1 This act shall take effect immediately.