

# 2020 SPECIAL SESSION I

## HOUSE SUBSTITUTE

20201020D

### HOUSE BILL NO. 5029

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on August 26, 2020)

(Patron Prior to Substitute—Delegate McQuinn)

A *BILL to amend the Code of Virginia by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.5, relating to law-enforcement officer; failure to intervene in use of excessive force; penalties.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.5 as follows:**

**§ 18.2-57.5. Failure of a law-enforcement officer to intervene in use of excessive force; penalties.**

**A. As used in this section:**

*"Deadly force" means any force that is likely or intended to cause serious bodily injury or death.*

*"Excessive force" means any force that is objectively unreasonable given the totality of the circumstances, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.*

*"Law-enforcement officer" means the same as that term is defined in § 9.1-101.*

**B. Any law-enforcement officer who witnesses another law-enforcement officer, in the performance of his official duties, engaging or attempting to engage in the use of excessive force against another person shall intervene, when such intervention is objectively reasonable and possible, to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A law-enforcement officer shall also render aid, as circumstances objectively permit, to any person injured as the result of such use of excessive force.**

**C. The knowing failure to intervene in the use of nondeadly excessive force as required by subsection B is punishable as a Class 1 misdemeanor.**

**D. The knowing failure to intervene in the use of excessive force that is deadly force as required by subsection B is punishable as a Class 6 felony.**

**E. The knowing failure to intervene in the use of excessive force as required by subsection B, whether such force is deadly or nondeadly, that leads to death or if the victim is thereby severely injured and is caused to suffer permanent and significant physical impairment is punishable as a Class 4 felony.**

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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