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SENATE BILL NO. 1332

Offered January 13, 2021

Prefiled January 12, 2021

A *BILL to amend and reenact § 19.2-83.5, as it shall become effective, of the Code of Virginia, relating to use of deadly force by a law-enforcement officer during an arrest or detention.*

Patron—Reeves

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-83.5, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 19.2-83.5. (Effective March 1, 2021) Use of deadly force by a law-enforcement officer during an arrest or detention.

A. A law-enforcement officer shall not use deadly force against a person unless:

~~1. The~~ *the* law-enforcement officer reasonably believes that deadly force is immediately necessary to protect the law-enforcement officer or another person, other than the subject of the use of deadly force, from the threat of serious bodily injury or death;

~~2. If feasible, the law-enforcement officer has provided a warning to the subject of the deadly force that he will use deadly force;~~

~~3. The law-enforcement officer's actions are reasonable, given the totality of the circumstances; and~~

~~4. All other options have been exhausted or do not reasonably lend themselves to the circumstances.~~

B. In determining if a law-enforcement officer's use of deadly force is proper, the following factors shall be considered:

1. The reasonableness of the law-enforcement officer's belief and actions from the perspective of a reasonable law-enforcement officer on the scene at the time of the incident; and

2. The totality of the circumstances, including (i) the amount of time available to the law-enforcement officer to make a decision; (ii) whether the subject of the use of deadly force (a) possessed or appeared to possess a deadly weapon and (b) refused to comply with the law-enforcement officer's lawful order to surrender an object believed to be a deadly weapon prior to the law-enforcement officer using deadly force; (iii) whether the law-enforcement officer engaged in de-escalation measures prior to the use of deadly force, including taking cover, waiting for backup, trying to calm the subject prior to the use of force, or using non-deadly force prior to the use of deadly force; (iv) whether any *unreasonable or unlawful* conduct by the law-enforcement officer prior to the use of deadly force intentionally increased the risk of a confrontation resulting in deadly force being used; ~~and~~ (v) the seriousness of the suspected crime; *(vi) whether the law-enforcement officer provided a warning to the subject of the deadly force prior to using deadly force, if feasible; and (vii) whether options other than deadly force were exhausted or did not reasonably lend themselves to the circumstances.*

INTRODUCED

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