

20200081D

**HOUSE BILL NO. 5114**

Offered August 22, 2020

A *BILL to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 7.1, consisting of sections numbered 19.2-83.3 and 19.2-83.4, relating to law-enforcement officer conduct during an arrest or detention; use of force; prohibited practices.*

Patrons—Aird, Bourne, Carr, Carroll Foy, Cole, J.G., Guzman, Hayes, Hope, Kory, Levine, Lindsey, McQuinn, Plum, Price, Rasoul, Samirah, Scott, Simonds and Subramanyam

Referred to Committee for Courts of Justice

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

**1. That the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 7.1, consisting of sections numbered 19.2-83.3 and 19.2-83.4, as follows:**

**CHAPTER 7.1.****LAW-ENFORCEMENT OFFICER CONDUCT DURING AN ARREST OR DETENTION.****§ 19.2-83.3. Definitions.**

*As used in this chapter:*

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

*"Deadly weapon" means any object, other than a body part or stationary object, that in the manner of its actual, attempted, or threatened use is likely 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.*

*"Neck restraint" means the use of any body part or object to attempt to control or disable a person by applying pressure against the neck, including the trachea or carotid artery, with the purpose, intent, or effect of controlling or restricting the person's movement or restricting the person's blood flow or breathing, including chokeholds, carotid restraints, and lateral vascular neck restraints.*

**§ 19.2-83.4. Use of force by a law-enforcement officer during an arrest or detention; prohibited practices.**

*A. A law-enforcement officer shall not use excessive force against a person.*

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

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

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

*C. 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; and*

*2. The totality of the circumstances, including (i) 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; (ii) 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; and (iii) whether any conduct by the law-enforcement officer prior to the use of deadly force increased the risk of a confrontation resulting in deadly force being used.*

*D. The use of a neck restraint by a law-enforcement officer is prohibited.*

*E. In addition to any other penalty authorized by law, any law-enforcement officer who knowingly violates the provisions of this section shall be subject to disciplinary action, including dismissal, demotion, suspension, or transfer of the law-enforcement officer.*

INTRODUCED

HB5114