

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0468S.01I
 Bill No.: SB 60
 Subject: Law Enforcement Officers and Agencies; Courts; Judges; Public Safety,
 Department of; Boards, Commissions, Committees and Councils; Crimes and
 Punishment; Firearms; Victims Of Crime; Weapons
 Type: Original
 Date: January 25, 2021

Bill Summary: This proposal creates and modifies provisions relating to law enforcement agency accountability.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue	(\$295,164)	(\$358,490)	(\$386,992)	(\$447,136)
Total Estimated Net Effect on General Revenue	(\$295,164)	(\$358,490)	(\$386,992)	(\$447,136)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Conservation Commission Fund (0609)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on Other State Funds	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue	3 FTE	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE	3 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Local Government	\$0 to (Unknown, could exceed \$656,691)	\$0 to (Unknown, could exceed \$290,688)	\$0 to (Unknown, could exceed \$290,688)	\$0 to (Unknown, could exceed \$290,688)

FISCAL ANALYSIS

ASSUMPTION

§§105.240, 542.271, 542.276, 542.291, 542.296 and 544.200 – No-knock warrants

Officials from the **St. Louis County Police Department (SLCPD)** state the proposed legislation would require law enforcement agencies to eliminate no knock warrants unless the alleged perpetrator has committed a violent felony offense and will escape or cause bodily harm to others. Specifically, section 2 within 542.291 deems warrants invalid if they authorize or imply that knocking is not required, however it authorizes officers to serve the warrant as long as they knock and announce-unless the alleged perpetrator has committed a violent felony offense and will escape or cause bodily harm to others. Policy changes and additional training to officers will be required.

Section 542.296 of the proposed legislation deems no-knock warrants as grounds to have a motion to suppress evidence. This section does not include if the alleged perpetrator has committed a violent felony offense and will escape or cause bodily harm to others which contradicts the other four sections. Additional court room time for officers plus additional training and policy changes will be needed.

§§544.190 and 590.656 – Use of force by a law enforcement officer and excessive force complaints

Officials from the **Attorney General's Office (AGO)** state the Federal Bureau of Investigation operates the National Use-of-Force data collection effort which would partially overlap with the use-of-force reporting program described in §544.190.2(2) and 590.656.2 of this bill.

Sections 544.190.2(2) and 590.656.2 of this bill would require the AGO to develop a method to collect data and annually report on uses of deadly force and complaints alleging excessive use-of-force by all law enforcement agencies in the state. To accomplish this, the AGO would require two (2) Information Systems Specialists to develop and maintain the reporting infrastructure as well as one (1) Assistant Attorney General I to act as a program manager and administratively manage the programs.

Oversight does not have any information contrary to that provided by AGO. Therefore, Oversight will reflect AGO's impact for fiscal note purposes.

Officials from the **Department of Revenue (DOR)** state this bill amends §544.190 to require de-escalation training which is to be determined by Department of Public Safety' POST Commission (POST).

There may be a fiscal impact to DOR-CIB dependent upon the de-escalation training requirements. If the de-escalation training is done via webinar from DPS at no cost to the agencies, then there would be no cost to CIB. However, if training is mandatory and conducted

in a classroom setting, there would be a fiscal impact to CIB to train 15 agents for the number of hours to be determined by POST.

Since the bill does not specify the number of hours and requirements for de-escalation training, the exact fiscal impact is unknown.

CIB agents currently are required to obtain 24 hours of POST credit hours yearly. Twenty-one of those hours are obtained by attending the Law Enforcement Community Coordination (LECC) Training Seminar from the U.S. Western District Attorney's Office. The cost in FY 2019 for fifteen (15) CIB agents to attend the training is as follows:

Lodging:	\$3,530.28
Meal Expenses:	\$858.00
Registration:	<u>\$1,950.00</u>
Total	\$6,338.28

The total cost per agent is \$422.55 ($\$6,338.28 / 15$).

The total cost per agent per POST hour = \$20.12 ($\$422.55 / 21$ hours)

Therefore, the fiscal impact to the CIB Bureau to train 15 agents for one hour of POST training is approximately \$302 ($\20.12×15).

Oversight does not have any information contrary to that provided by DOR. However, Oversight assumes due to the pandemic, DPS will provide any training necessary via a webinar instead of a classroom environment and will reflect no fiscal impact to the DOR for fiscal note purposes.

Officials from the **St. Louis County Police Department** state §544.190 of the proposed legislation advises which situations officers are permitted to use deadly force. New policy and additional training will be required to update officers on new language in legislation. Additionally, section 4, lists several scenarios where use of force to effect an arrest is prohibited. Policy updates including the specific language from this section would have to be developed, and training conducted to support the policy. Policy research, development, and approval, along with training research, development, and implementation will have a cost.

§563.046 – Use of force by a law enforcement officer

Officials from the **Department of Corrections (DOC)** state a law enforcement officer who purposefully allows a fellow officer to use inappropriate or excessive force, including the use of a choke-hold, may be prosecuted for failure to intervene. Such failure to intervene shall be a class E felony if it is proven the defendant officer was aware of the other officer's violation and chose not to intervene.

This creates a new class E felony offense for which the department estimates the following impact. For each new nonviolent class E felony, the Department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years of which, 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the Department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2024.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

Officials from the **SLCPD** state §563.046 of the proposed legislation updates the wording on the use of chokeholds, when deadly force is warranted, and the duty to intervene. While the St. Louis County Police Department does not disagree with many of the elements identified in this section, new policy and additional training will be required to update officers on new language in legislation which would result in a cost to the SLCPD.

§574.055 – Use of chemical agents

Officials from the **SLCPD** state §574.055 of the proposed legislation prohibits the use of chemical agents unless a person has caused or attempted to cause serious physical injury to another person. The section also includes restrictions on use and explicit language to be included in warnings to persons who will be sprayed. If passed, policy updates and additional training will be required to update officers on new language in legislation.

§590.040 – Basic training of peace officers

Officials from the **SLCPD** state §590.040 of the proposed legislation would require law enforcement agencies to expand training and obtain certifications. While the St. Louis County Police Department currently meets many of the expanded training pieces proposed, the

additional training on autism and certification required for body worn cameras would require the Department to spend additional funds on training. The basic recruit class may have to be expanded, as well, to allow enough time for the required training. The costs of these are unknown because the cost of the training or development of specific training is unknown.

§590.195 – Violations of law enforcement agencies

Oversight notes the provisions of §590.195 provide that a law enforcement agency shall be subject to a fine of \$1,000 each day the agency commissions a peace officer in violation of the law.

Oversight notes that violations of §590.195 resulting in fines could vary widely from year to year. Civil penalties collected per Article IX, Section 7 of the Missouri Constitution requires fines to be distributed to the school district where the violation occurred; therefore, Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts on the fiscal note.

§590.510 – Written policies of law enforcement agencies

Officials from the **SLCPD** state §590.510 of the proposed legislation would require law enforcement agencies to adopt written investigation policies for officer-involved deaths. The following issues have been identified by the SLCPD:

1. It is impossible to determine the number of investigations the Department would be required to conduct for area agencies. The Department currently provides crime scene and investigative assistance to smaller agencies in the area, free of charge.
2. While the Department does have mutual aid agreements, much assistance is currently provided free of charge, therefore the proposed legislation would require the drafting of new agreements with several local law enforcement agencies.
3. Although the Department would be able to provide the necessary resources to smaller agencies to conduct thorough investigations, there are not any agencies, in the immediate area, besides MSHP, that could provide the same level of quality in return.
4. The Department recently expanded the Crimes Against Persons Bureau in order to keep up with the increasing caseload. If these same detectives were required to take on other agencies officer-involved death investigations, that would take away time from other Department investigations, including those that are not officer-involved.
5. Finally, a policy change would be required to modify current practice.

Ultimately, due to these factors, it is impossible to calculate the significant cost associated with this proposed legislation.

Each additional detective would cost, at a minimum, \$96,896 annually, plus a 3% increase for raises each year as determined in the officer collective bargaining agreement. A Research Associate would be required to spend a minimum of 80 hours, researching, developing, and approving all of the required policy changes included in this legislation, costing approximately

\$2,306 – not including other officer involvement in the research or approval process. An officer would be required to spend a minimum of 80 hours developing and approving new training to be provided to all commissioned officers, costing approximately \$3,727 not including other officer involvement in the research or approval process. Finally, all 966 police officers would be required to sit for an estimated 8 hours of training to encompass all the changes included in this legislation. Each officer averages \$46.58 an hour which would result in a training cost of approximately \$359,970 not including covering open shifts, overtime, or the cost of the trainer.

The total cost of this legislation is difficult to determine. However, at a minimum, the addition of three detectives, several policy changes, and significant training provided would cost approximately \$656,691 in the first year. After the first year, the cost would be \$290,688 annually with a likely 3% increase for salary raises.

Officials from the **El Dorado Springs Police Department (EDSPD)** estimate Crisis Intervention Team training at approximately \$1,000 per officer. However, the number of officers requiring training was not provided. Additionally, the EDSPD states rural small-town police departments do not have the funding to provide policies to the public via internet and did not provide a cost for this provision.

Oversight notes the costs for the St. Louis County Police Department and El Dorado Springs Police Department. Oversight is unable to project a statewide cost for police and sheriff's departments; therefore, the impact to local governments will be presented as \$0 to (Unknown, could exceed \$656,691) for FY 2022; and \$0 to (Unknown, could exceed \$290,688) for subsequent years.

§590.652 – Law enforcement agency requirements for firearms

Oversight notes the provisions of §590.652 provide that any law enforcement agency found to permit officers to carry an unauthorized firearm shall receive a warning for the first offense and a fine of up to \$5,000 for each subsequent offense.

Oversight notes that violations of §590.652 resulting in fines could vary widely from year to year. Civil penalties collected per Article IX, Section 7 of the Missouri Constitution requires fines to be distributed to the school district where the violation occurred; therefore, Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts on the fiscal note.

§590.654 – Offense of aggravated strangulation in the 1st degree

DOC states any peace officer or security guard, while in the performance of his or her official duties, who uses a carotid restraint or choke-hold and causes death to another person in circumstances in which a reasonable person would believe the use of deadly force is not justified shall be guilty of the offense of aggravated strangulation in the first degree, a class A felony.

Given the creation of completely new class A felony is very rare, the department does not have a sufficient historical record upon which to base an estimate of the operational impact of creating such an offense. Therefore, DOC assumes it will have minimal to no impact on the department.

§590.655 – Offense of aggravated strangulation in the 2nd degree

DOC states any peace officer or security guard, while in the performance of his or her official duties, who uses a carotid restraint or choke-hold and causes serious physical injury to another person in circumstances in which a reasonable person would believe physical force is not justified shall be guilty of the offense of aggravated strangulation in the second degree. Such offense shall be a class B felony.

This creates a new class B felony offense for which the department estimates the following impact. For each new class B felony, the Department estimates three people will be sentenced to prison and four to probation. The average sentence for a class B felony offense is 8.7 years, of which 5.1 years will be served in prison with 3.4 years to first release. The remaining 3.6 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the Department is estimated to be 15 additional offenders in prison and 23 additional offenders on field supervision by FY 2030.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	3	6	9	12	15	15	15	15	15	15
Parole						3	6	9	11	11
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	3	6	9	12	15	15	15	15	15	15
Field Population	4	8	12	12	12	15	18	21	23	23
Population Change	7	14	21	24	27	30	33	36	38	38

Combined Estimated Cumulative Impact of SB 60

The estimated combined impact of the proposed legislation is approximately 17 additional people in prison and 19 additional people under supervision in the field by FY 2026.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	4	8	11	14	17	17	17	17	17	17
Parole			1	1	1	4	7	10	12	12
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	4	8	11	14	17	17	17	17	17	17
Field Population	6	12	19	19	19	22	25	28	30	30
Population Change	10	20	30	33	36	39	42	45	47	47

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	4	(\$7,756)	(\$25,853)	6	absorbed	\$0	(\$25,853)
Year 2	8	(\$7,756)	(\$63,289)	12	absorbed	\$0	(\$63,289)
Year 3	11	(\$7,756)	(\$88,763)	19	absorbed	\$0	(\$88,763)
Year 4	14	(\$7,756)	(\$115,230)	19	absorbed	\$0	(\$115,230)
Year 5	17	(\$7,756)	(\$142,721)	19	absorbed	\$0	(\$142,721)
Year 6	17	(\$7,756)	(\$145,575)	22	absorbed	\$0	(\$145,575)
Year 7	17	(\$7,756)	(\$148,487)	25	absorbed	\$0	(\$148,487)
Year 8	17	(\$7,756)	(\$151,457)	28	absorbed	\$0	(\$151,457)
Year 9	17	(\$7,756)	(\$154,486)	30	absorbed	\$0	(\$154,486)
Year 10	17	(\$7,756)	(\$157,575)	30	absorbed	\$0	(\$157,575)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance

equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Bill as a Whole

Officials from the **Missouri Department of Conservation (MDC)** state fiscal impact likely less than \$100,000 but could change depending upon required changes to training and policy revisions.

Oversight does not have any information contrary to that provided by MDC. Therefore, Oversight will reflect MDC's impact for fiscal note purposes.

Officials from the **Department of Labor and Industrial Relations**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Public Safety – (Capitol Police, Missouri Highway Patrol, and Office of the Director)**, the **Department of Social Services**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, the **Crestwood Police Department**, the **Ellisville Police Department**, the **Kansas City Police Department**, and the **St. Joseph Police Department** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other counties, county prosecutors, police and sheriff departments, and the City of St. Louis were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

Officials from the **Office of Administration** did not respond to **Oversight's** request for fiscal impact for this proposal.

<u>FISCAL IMPACT</u> <u>– State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
<u>Costs – AGO</u> (§§544.190.2(2) and 590.656.2)				
Personal services	(\$142,058)	(\$172,175)	(\$173,896)	(\$177,392)
Fringe benefits	(\$77,795)	(\$93,929)	(\$94,510)	(\$95,690)
Expense and equipment	(\$49,458)	(\$29,097)	(\$29,823)	(\$31,333)
<u>Total costs - AGO</u>	<u>(\$269,311)</u>	<u>(\$295,201)</u>	<u>(\$298,229)</u>	<u>(\$304,415)</u>
FTE Change - AGO	3 FTE	3 FTE	3 FTE	3 FTE
<u>Costs – DOC</u> (§§563.046, 590.654 and 590.655) Increased incarceration costs	(\$25,853)	(\$63,289)	(\$88,763)	(\$142,721)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$295,164)</u>	<u>(\$358,490)</u>	<u>(\$386,992)</u>	<u>(\$447,136)</u>
Estimated Net FTE Change for the General Revenue Fund	3 FTE	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT</u> – State Government (continued)	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
CONSERVATION COMMISSION FUND (0609)				
Cost – MDC Training and policy revision	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON THE CONSERVATION COMMISSION FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

<u>FISCAL IMPACT</u> – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
LOCAL POLITICAL SUBDIVISIONS				
<u>Revenue</u> – School districts (§§590.195 and 590.652) Fines from violations	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Costs</u> - Police and Sheriff's Departments (Increased cost to train and develop policy)	\$0 to <u>(Unknown, could exceed \$656,691)</u>	\$0 to <u>(Unknown, could exceed \$290,688)</u>	\$0 to <u>(Unknown, could exceed \$290,688)</u>	\$0 to <u>(Unknown, could exceed \$290,688)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to (Unknown, could exceed \$656,691)</u>	<u>\$0 to (Unknown, could exceed \$290,688)</u>	<u>\$0 to (Unknown, could exceed \$290,688)</u>	<u>\$0 to (Unknown, could exceed \$290,688)</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act creates and modifies provisions relating to law enforcement agency accountability.

NO-KNOCK WARRANTS (Sections 105.240, 542.271, 542.276, 542.291, 542.296, and 544.200)

Under current law, officers may break open doors and enclosures to execute a warrant or other process for the arrest of any person. This act modifies these provisions to provide that any search warrant issued by a judge that does not require officers executing the warrant to knock may only be used if there is a reasonable suspicion that the suspect of a violent felony offense will escape or cause bodily harm to others.

Under current law, a search must be conducted in a reasonable manner. This act modifies this provision to provide that a search is not conducted in a reasonable manner if the search is conducted without the officer knocking and announcing his or her presence unless the officer has a reasonable suspicion that the suspect of a violent felony offense will escape or cause bodily harm to others. Additionally, this act provides that a warrant shall be invalid on its face if it authorizes or impliedly authorizes officers to execute the warrant without knocking unless the officer has a reasonable suspicion that the suspect of a violent felony offense will escape or cause bodily harm to others.

Finally, a person may make a motion at trial to suppress evidence if the search warrant was illegally executed, which includes if such warrant was executed without the officer knocking and providing notice of his or her authority and purpose.

USE OF FORCE BY A LAW ENFORCEMENT OFFICER (Sections 544.190 and 563.046)

Under current law, if a person flees or forcibly resists, an officer may use all necessary means to effect an arrest. This act provides that an officer shall not use deadly force to effect an arrest unless a person is displaying aggravated aggressive resistance and the officer has an objectively reasonable belief that the person poses an imminent threat to the officer or others or to prevent the escape of a person suspected of a violent felony offense if the officer has probable cause to believe the suspect poses a threat to the officer or others. Additionally, the officer must first use less intrusive methods to detain a person unless the officer reasonably determines such methods would be ineffective.

This act provides that prior to using force to effect an arrest, an officer must identify themselves and give a person the opportunity to submit to arrest before force is used. Additionally, an officer

shall not use force against a person already restrained or when used to punish or as a retaliatory force.

Under current law, a law enforcement officer need not retreat or desist from efforts to effect an arrest if he or she reasonably believes such person has committed an offense. An officer may use any physical force in making a lawful arrest and the amount of physical force used must be objectively reasonable in light of the totality of the particular facts and circumstances confronting the officer on the scene, without regard to the officer's underlying intent or motivation.

This act provides that the use of a choke-hold in making an arrest is not justified physical force.

Under current law, a law enforcement officer is justified in using deadly force if such deadly force was justified under the law or if the officer reasonably believes that such use of deadly force is immediately necessary to effect the arrest of a person or prevent an escape from custody and reasonably believes such person has committed a felony offense involving serious physical injury;

- Is attempting to escape by use of a deadly weapon; or
- Otherwise is endangering the life of the officer or others unless arrested without delay.

This act modifies this provision to provide that a law enforcement officer is only justified in using deadly force if the law enforcement officer reasonably believes, based on the totality of the circumstances, that it is necessary to protect the law enforcement officer or another from imminent death or great bodily harm or to effect the arrest of a person whom the law enforcement officer knows or has reasonable grounds to believe has committed or attempted to commit a felony offense involving the infliction or threatened infliction of serious physical injury and the officer reasonably believes that the person will cause death or great bodily harm to another person unless immediately apprehended.

Additionally, a law enforcement officer shall not use deadly force against a person based on the danger the person poses to the law enforcement officer if an objectively reasonable law enforcement officer would believe the person does not pose an imminent threat of death or great bodily harm to the law enforcement officer or to another person.

Finally, a law enforcement officer shall have the duty to intervene at any scene where physical force is being applied in which such force is inappropriately applied or is no longer required. A law enforcement officer who purposefully allows another officer to use inappropriate force shall be guilty of a Class E felony.

USE OF CHEMICAL AGENTS (Section 574.055)

A law enforcement agency, when using chemical agents, shall only use such chemical agents after a person has caused or attempted to cause serious physical injury to another person. A law enforcement agency shall provide a warning before deploying a chemical agent and shall require law enforcement officers to wear badges affixed to a uniform or helmet even if officers are wearing riot gear.

A law enforcement agency shall not use chemical agents against individuals who fail to disperse but have not caused physical injury to another person or on a person who is restrained. Additionally, officers shall not block any routes of egress prior to the deployment of a chemical agent.

BASIC TRAINING OF PEACE OFFICERS (Section 590.040)

This act adds training certification requirements for peace officers which shall include de-escalation training and the use of body-worn cameras. Additionally, the basic training of every peace officer shall prohibit the use of maneuvers that restrict blood or oxygen flow to the brain, or prevents or hinders breathing or reduces the intake of air, such as knee-holds, choke-holds, or similar acts of applying force or pressure to the neck, unless deadly force is necessary.

VIOLATIONS OF LAW ENFORCEMENT AGENCIES (Section 590.195)

This act provides that a law enforcement agency shall be subject to a fine of \$1,000 each day the agency commissions a peace officer in violation of the law.

WRITTEN POLICIES OF LAW ENFORCEMENT AGENCIES (Section 590.510)

Every law enforcement agency shall have a written policy regarding the investigation of an officer-involved death. Such a written policy shall require certain investigatory measures as provided in the act. The investigators conducting an investigation shall provide a complete report to the prosecutor of the county in which the death occurred.

LAW ENFORCEMENT AGENCY REQUIREMENTS FOR FIREARMS (Section 590.652)

This act provides that law enforcement agencies shall adopt certain requirements regarding weapons and the use of force by officers. Officers must complete a yearly firearms certification and if an officer fails to complete the certification he or she must relinquish all agency-issued firearms. Any law enforcement agency found to permit officers to carry an unauthorized firearm shall be fined as provided in the act.

Additionally, law enforcement agencies shall require officers to report a reasonable justification for each shot fired as a separate incident of use of force.

OFFENSE OF AGGRAVATED STRANGULATION IN THE FIRST DEGREE (Section 590.654)

This act creates the offense of aggravated strangulation in the first degree by a peace officer or security guard. Any peace officer or security guard, while in the performance of his or her official duties, who uses a choke-hold and causes death to another person in circumstances in which the use of deadly force, according to a reasonable person, is not justified shall be guilty of aggravated strangulation in the first degree. The offense of aggravated strangulation in the first degree shall be a Class A felony.

OFFENSE OF AGGRAVATED STRANGULATION IN THE SECOND DEGREE (Section 590.655)

This act creates the offense of aggravated strangulation in the second degree by a peace officer or security guard. Any peace officer or security guard, while in the performance of his or her official duties, who uses a choke-hold and causes serious physical injury to another person in circumstances in which the use of physical force, according to a reasonable person, is not justified shall be guilty of aggravated strangulation in the second degree. The offense of aggravated strangulation in the second degree shall be a class B felony.

EXCESSIVE FORCE COMPLAINTS (Section 590.656)

Each state and local law enforcement agency shall send a report of all complaints alleging excessive use of force to the Attorney General. The report shall include information regarding the age, gender, and race of the individual alleging the complaint.

Additionally, each state and local law enforcement agency shall send a report to the Attorney General of all instances of deadly force by law enforcement officers.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

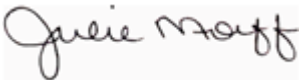
Attorney General's Office
Department of Corrections
Department of Labor and Industrial Relations
Department of Mental Health
Department of Natural Resources
Department of Public Safety
Department of Revenue
Department of Social Services
Missouri Department of Conservation
Missouri Office of Prosecution Services

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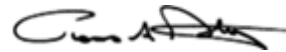
Office of the State Courts Administrator
Office of the State Public Defender
Crestwood Police Department
Ellisville Police Department
El Dorado Springs Police Department
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department

NOT RESPONDING

Office of Administration



Julie Morff
Director
January 25, 2021



Ross Strobe
Assistant Director
January 25, 2021