

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT
INTEGRITY ACT

Introduced By: Senators Acosta, Mack, Kallman, and Murray

Date Introduced: March 07, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 165

4 LAW ENFORCEMENT INTEGRITY ACT

5 **42-165-1. Short title.**

6 This chapter shall be known and may be cited as the "Law Enforcement Integrity Act".

7 **42-165-2. Definitions.**

8 As used in this chapter, the following words, terms and phrases have the meanings
9 indicated:

10 (1) "Contacts" means an interaction with an individual, whether or not the person is in a
11 motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose
12 of enforcing the law or investigating possible violations of the law. "Contacts" do not include
13 routine interactions with the public at the point of entry or exit from a controlled area.

14 (2) "Demographic information" means race, ethnicity, sex, and approximate age.

15 (3) "Peace officer" means the individuals and agencies as defined in § 12-7-21.

16 (4) "Physical force" means the application of physical techniques or tactics, chemical
17 agents, or weapons to another person.

18 (5) "Serious bodily injury" means physical injury that creates a substantial risk of death or

1 causes serious permanent disfigurement or protracted loss or impairment of the function of any
2 bodily member or organ.

3 **42-165-3. Documented excessive force.**

4 Notwithstanding any provision of law, if any peace officer is convicted of or pleads guilty
5 or nolo contendere to a crime involving the unlawful use or threatened use of physical force, a
6 crime involving the failure to intervene in the use of unlawful force, or is found civilly liable for
7 the use of unlawful physical force, or is found civilly liable for failure to intervene in the use of
8 unlawful force, the chief law enforcement officer for the offender's department shall impose
9 discipline up to and including termination to the extent permitted by the provisions of chapter 28.6
10 of title 42.

11 **42-165-4. Restricted force in response to protests.**

12 In response to a protest or demonstration, a law enforcement agency and any person acting
13 on behalf of the law enforcement agency shall not:

14 (1) Discharge kinetic impact projectiles and all other non- or less-lethal projectiles in a
15 manner that targets the head, pelvis, or back;

16 (2) Discharge kinetic impact projectiles indiscriminately into a crowd; or

17 (3) Use chemical agents or irritants, including pepper spray and tear gas, prior to issuing
18 an order to disperse in a sufficient manner to ensure the order is heard and repeated if necessary,
19 followed by sufficient time and space to allow compliance with the order.

20 **42-165-5. Civil action for deprivation of rights.**

21 (a) A peace officer, employed by a local government who, under color of law, subjects or
22 causes to be subjected, including failing to intervene, any other person to the deprivation of any
23 individual rights that create binding obligations on government actors secured by the United States
24 Constitution, or by the state constitution, is liable to the injured party for legal or equitable relief or
25 any other appropriate relief.

26 (b)(1) Statutory immunities and statutory limitations on liability, damages, or attorneys'
27 fees shall not apply to claims brought pursuant to this section.

28 (2) Qualified immunity is not a defense to liability pursuant to this section.

29 (c) In any action brought pursuant to this section, a court shall award reasonable attorneys'
30 fees and costs to a prevailing plaintiff. In actions for injunctive relief, a court shall deem a plaintiff
31 to have prevailed if the plaintiff's suit was a substantial factor or significant catalyst in obtaining
32 the results sought by the litigation. When a judgment is entered in favor of a defendant, the court
33 may award reasonable costs and attorney fees to the defendant for defending any claims the court
34 finds frivolous.

1 (d) Notwithstanding any other provision of law, a peace officer's employer shall indemnify
2 its peace officers for any liability incurred by the peace officer and for any judgment or settlement
3 entered against the peace officer for claims arising pursuant to this section; except that, if the peace
4 officer's employer determines that the officer did not act upon a good faith and reasonable belief
5 that the action was lawful, then the peace officer shall be personally liable and shall not be
6 indemnified by the peace officer's employer for five percent (5%) of the judgment or settlement or
7 twenty-five thousand dollars (\$25,000), whichever is less. Notwithstanding any provision of this
8 section to the contrary, if the peace officer's portion of the judgment is uncollectible from the peace
9 officer, the peace officer's employer or insurer shall satisfy the full amount of the judgment or
10 settlement. A public entity does not have to indemnify a peace officer if the peace officer was
11 convicted of a criminal violation for the conduct from which the claim arises.

12 (e) A civil action pursuant to this section shall be commenced within three (3) years after
13 the cause of action accrues.

14 **42-165-6. Use of force by peace officers.**

15 (a) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible,
16 before resorting to the use of physical force. A peace officer may use physical force only if
17 nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing
18 an imminent threat of serious bodily injury or death to the peace officer or another person.

19 (b) When physical force is used, a peace officer shall:

20 (1) Not use deadly physical force to apprehend a person who is suspected of only a minor
21 or nonviolent offense;

22 (2) Use only a degree of force consistent with the minimization of injury to others;

23 (3) Ensure that assistance and medical aid are rendered to any injured or affected persons
24 as soon as practicable; and

25 (4) Ensure that any identified relatives or next of kin of persons who have sustained serious
26 bodily injury or death are notified as soon as practicable.

27 (c) A peace officer is prohibited from using a chokehold upon another person. For the
28 purposes of this subsection, "chokehold" means a method by which a person applies sufficient
29 pressure to a person to make breathing difficult or impossible and includes, but is not limited to,
30 any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake
31 of air. "Chokehold" also means applying pressure to a person's neck on either side of the windpipe,
32 but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

33 (d) A peace officer is justified in using deadly physical force to make an arrest only when
34 all other means of apprehension are unreasonable given the circumstances and:

1 (1) The arrest is for a felony involving conduct including the use or threatened use of deadly
2 physical force;

3 (2) The suspect poses an immediate threat to the peace officer or another person; and

4 (3) The force employed does not create a substantial risk of injury to other persons.

5 (e) A peace officer shall identify himself or herself as a peace officer and give a clear verbal
6 warning of his or her intent to use firearms or other deadly physical force, with sufficient time for
7 the warning to be observed, unless to do so would unduly place peace officers at risk of injury, or
8 would create a risk of death or injury to other persons. Notwithstanding any other provisions in this
9 section, a peace officer is justified in using deadly force if the peace officer has an objectively
10 reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively
11 reasonable grounds to believe, and does believe, that he/she or another person is in imminent danger
12 of being killed or of receiving serious bodily injury.

13 **42-165-7. Duty to report use of force by peace officers – Duty to intervene.**

14 (a) A peace officer shall intervene to prevent or stop another peace officer from using
15 physical force that exceeds the degree of force permitted, if any, by the provisions of this chapter.
16 This intervention shall include, but not be limited to, circumstances in which the other peace officer
17 is carrying out an arrest of any person, placing any person under detention, taking any person into
18 custody, booking any person, or in the process of crowd control or riot control, without regard for
19 chain of command.

20 (b) A peace officer who intervenes as required by subsection (a) of this section, shall report
21 the intervention to his or her immediate supervisor.

22 (c) At a minimum, the report required by subsection (b) of this section shall include the
23 date, time, and place of the occurrence; the identity, if known, and description of the participants;
24 and a description of the intervention actions taken. This report shall be made in writing within ten
25 (10) days of the occurrence of the use of such force and shall be appended to all other reports of
26 the incident.

27 (d) A member of a law enforcement agency shall not discipline or retaliate in any way
28 against a peace officer for intervening as required by subsection (a) of this section, or for reporting
29 unconstitutional conduct, or for failing to follow what the officer reasonably believes is an
30 unconstitutional directive.

31 (e) Any peace officer who fails to intervene to prevent the use of unlawful force as
32 prescribed in this section commits a misdemeanor punishable by confinement of not more than one
33 year and/or a fine of not more than one thousand dollars (\$1,000). Nothing in this subsection shall
34 prohibit or discourage prosecution of any other criminal offense related to failure to intervene,

1 including a higher charge, if supported by the evidence.

2 (f) When an internal investigation finds that a peace officer failed to intervene to prevent
3 the use of unlawful physical force as prescribed in this section, this finding shall be presented to
4 the attorney general so that he or she can determine whether charges should be filed pursuant to
5 this section; provided; however, nothing in this subsection shall prohibit the attorney general from
6 charging an officer with failure to intervene before the conclusion of any internal investigation.

7 (g) In addition to any criminal liability and penalty under the law, when an internal
8 investigation finds that a peace officer failed to intervene as required by subsection (a) of this
9 section in an incident resulting in serious bodily injury or death to any person, the peace officer's
10 employer shall subject the peace officer to discipline, up to and including termination, pursuant to
11 the provisions of chapter 28.6 of title 42.

12 (h) In a case in which the department of the attorney general charges a peace officer with
13 offenses related to and based upon the use of excessive force but does not file charges against any
14 other peace officer or officers who were at the scene during the use of force, the attorney general
15 shall prepare a written report explaining the attorney general's basis for the decision not to charge
16 any other peace officer with any criminal conduct and shall publicly disclose the report to the
17 public; except that if disclosure of the report would substantially interfere with or jeopardize an
18 ongoing criminal investigation, the attorney general may delay public disclosure for up to forty-
19 five (45) days. The attorney general shall post the written report on its website. Nothing in this
20 section is intended to prohibit or discourage criminal prosecution of an officer who failed to
21 intervene for conduct in which the facts support a criminal charge, including under a complicity
22 theory, or for an inchoate offense.

23 **42-165-8. Training.**

24 Each law enforcement agency in the state shall train its peace officers regarding compliance
25 with the provisions of this chapter.

26 **42-165-9. Peace officer – Involved death investigations - Disclosure.**

27 Notwithstanding any other law to the contrary, with respect to a peace officer involved in
28 an investigation resulting in death, if the attorney general refers the matter under investigation to
29 the grand jury, the attorney general shall release a statement at the time the matter is referred to the
30 grand jury disclosing the general purpose of the grand jury's investigation. If a no true bill is
31 returned, the grand jury shall issue and publish a report.

32 **42-165-10. Profiling – Officer identification.**

33 (a) If a peace officer shall make a contact, whether consensual or nonconsensual, for the
34 purpose of enforcing the law or investigating possible violations of the law, then after making

1 contact, a peace officer shall report to the peace officer's employing agency:

2 (1) The perceived demographic information of the person contacted; provided, that the
3 identification of these characteristics is based on the observation and perception of the peace officer
4 making the contact and other available data;

5 (2) Whether the contact was a traffic stop;

6 (3) The time, date, and location of the contact;

7 (4) The duration of the contact;

8 (5) The reason for the contact;

9 (6) The suspected crime;

10 (7) The result of the contact, such as:

11 (i) No action, warning, citation, property seizure, or arrest;

12 (ii) If a warning or citation was issued, the warning provided or violation cited;

13 (iii) If an arrest was made, the offense charged; or

14 (iv) If the contact was a traffic stop, the information collected, which is limited to the driver;

15 (8) The actions taken by the peace officer during the contact, including, but not limited to,
16 whether:

17 (i) The peace officer asked for consent to search the person, vehicle, or other property, and,
18 if so, whether consent was provided;

19 (ii) The peace officer searched the person or any property, and, if so, the basis for the search
20 and the type of contraband or evidence discovered, if any;

21 (iii) The peace officer seized any property, and, if so, the type of property that was seized
22 and the basis for seizing the property;

23 (iv) A peace officer unholstered a weapon during the contact; and

24 (v) A peace officer discharged a firearm during the contact.

25 (b) A peace officer shall provide, without being asked, the peace officer's business card to
26 any person whom the peace officer has detained in a traffic stop but has not cited or arrested. The
27 business card shall include identifying information about the peace officer, including, but not
28 limited to, the peace officer's name, division, precinct, and badge or other identification number; a
29 telephone number that may be used, if necessary, to report any comments, positive or negative,
30 regarding the traffic stop; and information about how to file a complaint related to the contact. The
31 identity of the reporting person and the report of any such comments that constitute a complaint
32 shall initially be kept confidential by the receiving law enforcement agency, to the extent permitted
33 by law. The receiving law enforcement agency shall be permitted to obtain some identifying
34 information regarding the complaint to allow initial processing of the complaint. If it becomes

1 necessary for the further processing of the complaint for the complainant to disclose the
2 complainant's identity, the complainant shall do so or, at the option of the receiving law
3 enforcement agency, the complaint may be dismissed.

4 SECTION 2. This act shall take effect upon passage.

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LC001804
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT
INTEGRITY ACT

1 This act would specify and restrict the use of excessive physical force by peace officers,
2 require various reporting requirements of the incident and create a civil action for violations of
3 constitutional rights as well as impose a duty to intervene on peace officers at the scene of the
4 incident.

5 This act would take effect upon passage.

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LC001804
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