

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Foote

1 Amend printed bill, page 7, lines 25 and 26, strike "OR FOR FAILING TO
2 INTERVENE TO PREVENT INAPPROPRIATE USE OF PHYSICAL FORCE,".

3 Page 9, strike lines 21 through 27 and substitute:

4 **"SECTION 3.** In Colorado Revised Statutes, 18-1-707, **repeal**
5 **and reenact, with amendments,** (1), (2), (2.5), (3), and (4); and **add**
6 (4.5) as follows:

7 **18-1-707. Use of force by peace officers - definition.** (1) PEACE
8 OFFICERS, IN CARRYING OUT THEIR DUTIES, SHALL APPLY NONVIOLENT
9 MEANS, WHEN POSSIBLE, BEFORE RESORTING TO THE USE OF PHYSICAL
10 FORCE. A PEACE OFFICER MAY USE PHYSICAL FORCE ONLY IF NONVIOLENT
11 MEANS WOULD BE INEFFECTIVE IN EFFECTING AN ARREST, PREVENTING AN
12 ESCAPE, OR PREVENTING AN IMMINENT THREAT OF SERIOUS BODILY INJURY
13 OR DEATH TO THE PEACE OFFICER OR ANOTHER PERSON.

14 (2) WHEN PHYSICAL FORCE IS USED, A PEACE OFFICER SHALL:

15 (a) NOT USE DEADLY PHYSICAL FORCE TO APPREHEND A PERSON
16 WHO IS SUSPECTED OF ONLY A MINOR OR NONVIOLENT OFFENSE;
17 (b) USE ONLY A DEGREE OF FORCE CONSISTENT WITH THE
18 MINIMIZATION OF INJURY TO OTHERS;

19 (c) ENSURE THAT ASSISTANCE AND MEDICAL AID ARE RENDERED
20 TO ANY INJURED OR AFFECTED PERSONS AS SOON AS PRACTICABLE; AND

21 (d) ENSURE THAT ANY IDENTIFIED RELATIVES OR NEXT OF KIN OF
22 PERSONS WHO HAVE SUSTAINED SERIOUS BODILY INJURY OR DEATH ARE
23 NOTIFIED AS SOON AS PRACTICABLE.

24 (2.5) (a) A PEACE OFFICER IS PROHIBITED FROM USING A
25 CHOKEHOLD UPON ANOTHER PERSON.

26 (b) FOR THE PURPOSES OF THIS SUBSECTION (2.5), "CHOKEHOLD"
27 MEANS A METHOD BY WHICH A PERSON APPLIES SUFFICIENT PRESSURE TO
28 A PERSON TO MAKE BREATHING DIFFICULT OR IMPOSSIBLE AND INCLUDES
29 BUT IS NOT LIMITED TO ANY PRESSURE TO THE NECK, THROAT, OR
30 WINDPIPE THAT MAY PREVENT OR HINDER BREATHING OR REDUCE INTAKE
31 OF AIR.

32 (3) A PEACE OFFICER IS JUSTIFIED IN USING DEADLY PHYSICAL
33 FORCE TO MAKE AN ARREST ONLY WHEN ALL OTHER MEANS OF
34 APPREHENSION ARE IMPRACTICAL GIVEN THE CIRCUMSTANCES AND:

35 (a) THE ARREST IS FOR A FELONY INVOLVING CONDUCT INCLUDING
36 THE USE OR THREATENED USE OF DEADLY PHYSICAL FORCE;

37 (b) THERE IS SUBSTANTIAL RISK THAT THE PERSON TO BE
38 ARRESTED WILL CAUSE DEATH OR SERIOUS BODILY INJURY IF HIS OR HER

1 APPREHENSION IS DELAYED; AND
2 (c) THE FORCE EMPLOYED DOES NOT CREATE A SUBSTANTIAL RISK
3 OF INJURY TO INNOCENT PERSONS.

4 (4) A PEACE OFFICER SHALL IDENTIFY HIMSELF OR HERSELF AS A
5 PEACE OFFICER AND GIVE A CLEAR VERBAL WARNING OF HIS OR HER
6 INTENT TO USE FIREARMS OR OTHER DEADLY PHYSICAL FORCE, WITH
7 SUFFICIENT TIME FOR THE WARNING TO BE OBSERVED, UNLESS TO DO SO
8 WOULD UNDULY PLACE PEACE OFFICERS AT RISK OF INJURY, WOULD
9 CREATE A RISK OF DEATH OR INJURY TO OTHER PERSONS, OR WOULD BE
10 CLEARLY INAPPROPRIATE OR INEFFECTIVE UNDER THE CIRCUMSTANCES.

11 (4.5) THE DEFENSES IN SECTIONS 18-1-703 THROUGH 18-1-706.5
12 APPLY TO CIRCUMSTANCES DESCRIBED IN THIS SECTION.

13 **SECTION 4.** In Colorado Revised Statutes, 18-8-802, **add** (1.5)
14 as follows:

15 **18-8-802. Duty to report use of force by peace officers.**
16 (1.5) (a) A PEACE OFFICER SHALL INTERVENE TO PREVENT OR STOP
17 ANOTHER PEACE OFFICER FROM USING PHYSICAL FORCE THAT EXCEEDS
18 THE DEGREE OF FORCE PERMITTED, IF ANY, BY SECTION 18-1-707, IN
19 PURSUANCE OF THE OTHER PEACE OFFICER'S LAW ENFORCEMENT DUTIES
20 IN CARRYING OUT AN ARREST OF ANY PERSON, PLACING ANY PERSON
21 UNDER DETENTION, TAKING ANY PERSON INTO CUSTODY, BOOKING ANY
22 PERSON, OR IN THE PROCESS OF CROWD CONTROL OR RIOT CONTROL,
23 WITHOUT REGARD FOR CHAIN OF COMMAND.

24 (b) (I) A PEACE OFFICER WHO INTERVENES AS REQUIRED BY
25 SUBSECTION (1.5) (a) OF THIS SECTION SHALL REPORT THE INTERVENTION
26 TO HIS OR HER IMMEDIATE SUPERVISOR.

27 (II) AT A MINIMUM, THE REPORT REQUIRED BY THIS SUBSECTION
28 (1.5)(b) MUST INCLUDE THE DATE, TIME, AND PLACE OF THE OCCURRENCE;
29 THE IDENTITY, IF KNOWN, AND DESCRIPTION OF THE PARTICIPANTS; AND A
30 DESCRIPTION OF THE INTERVENTION ACTIONS TAKEN. THIS REPORT SHALL
31 BE MADE IN WRITING WITHIN TEN DAYS OF THE OCCURRENCE OF THE USE
32 OF SUCH FORCE AND SHALL BE APPENDED TO ALL OTHER REPORTS OF THE
33 INCIDENT.

34 (c) A MEMBER OF A LAW ENFORCEMENT AGENCY SHALL NOT
35 DISCIPLINE OR RETALIATE IN ANY WAY AGAINST A PEACE OFFICER FOR
36 INTERVENING AS REQUIRED BY SUBSECTION (1.5) (a) OF THIS SECTION, OR
37 FOR REPORTING UNCONSTITUTIONAL CONDUCT, OR FOR FAILING TO
38 FOLLOW WHAT THE OFFICER REASONABLY BELIEVES IS AN
39 UNCONSTITUTIONAL DIRECTIVE.

40 (d) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER
41 THE LAW, WHEN A COURT, ADMINISTRATIVE LAW JUDGE, OR INTERNAL
42 INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE AS
43 REQUIRED BY SUBSECTION (1.5)(a) OF THIS SECTION IN AN INCIDENT

1 RESULTING IN SERIOUS BODILY INJURY OR DEATH TO ANY PERSON, THE
2 PEACE OFFICER'S EMPLOYER SHALL SUBJECT THE PEACE OFFICER TO
3 DISCIPLINE, UP TO AND INCLUDING TERMINATION, AND THE P.O.S.T.
4 BOARD SHALL PERMANENTLY DECERTIFY THE PEACE OFFICER UPON
5 RECEIPT OF NOTICE OF THE PEACE OFFICER'S DISCIPLINE. THE PEACE
6 OFFICER MAY ONLY BE RECERTIFIED IF FOUND NOT GUILTY.".

7 Strike pages 10 and 11.

8 Page 12, strike lines 1 through 7.

9 Rerumber succeeding sections accordingly.

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