

# HOUSE BILL 956

E2

11r2370

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By: **Delegate Washington**

Introduced and read first time: February 2, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Law Enforcement Procedures – Use of Force**

3 FOR the purpose of providing that a certain police officer is justified in using force under  
4 certain circumstances; providing that a certain police officer is justified in using  
5 deadly force under certain circumstances; requiring a certain trier of fact to consider  
6 certain factors when assessing whether a certain police officer's beliefs and actions  
7 were reasonable; prohibiting a police officer from using a certain type of restraint,  
8 subject to a certain exception; requiring a certain police officer to make a certain  
9 attempt to intervene, to terminate, or to prevent a certain other officer's use of a  
10 certain type of restraint under certain circumstances; prohibiting a police officer  
11 from using deadly force directed at a moving vehicle, subject to certain exceptions;  
12 requiring a certain trier of fact to consider a certain police officer's beliefs and actions  
13 from the perspective of a reasonable police officer; defining certain terms; and  
14 generally relating to the use of force by police officers.

15 BY adding to

16 Article – Criminal Procedure

17 Section 2–109

18 Annotated Code of Maryland

19 (2018 Replacement Volume and 2020 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
21 That the Laws of Maryland read as follows:

22 **Article – Criminal Procedure**

23 **2–109.**

24 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
25 **INDICATED.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(2) “DEADLY FORCE” MEANS FORCE THAT IS LIKELY OR INTENDED TO**  
 2 **CAUSE SERIOUS BODILY INJURY OR DEATH.**

3           **(3) “DEADLY WEAPON” MEANS AN OBJECT, USED OR INTENDED TO BE**  
 4 **USED THAT IS LIKELY TO CAUSE SERIOUS BODILY INJURY OR DEATH.**

5           **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A POLICE**  
 6 **OFFICER IS JUSTIFIED IN USING FORCE AGAINST A PERSON IF:**

7           **(1) (I) 1. THERE IS PROBABLE CAUSE TO BELIEVE THAT THE**  
 8 **PERSON COMMITTED OR IS ABOUT TO COMMIT A CRIME; AND**

9                                   **2. THE FORCE IS USED TO PREVENT THE PERSON’S**  
 10 **ESCAPE FROM LAWFUL CUSTODY; OR**

11                               **(II) THE FORCE IS USED TO PREVENT THE COMMISSION OF A**  
 12 **CRIME; AND**

13           **(2) THE POLICE OFFICER USES:**

14                               **(I) FORCE THAT IS REASONABLY PROPORTIONATE TO THE**  
 15 **THREAT POSED BY THE PERSON; AND**

16                               **(II) NO MORE FORCE THAN IS REASONABLY NECESSARY TO:**

17                                   **1. EFFECTUATE AN ARREST;**

18                                   **2. PREVENT THE PERSON’S ESCAPE FROM LAWFUL**  
 19 **CUSTODY; OR**

20                                   **3. OBTAIN THE PERSON’S COMPLIANCE WITH A LAWFUL**  
 21 **ORDER.**

22           **(C) A POLICE OFFICER IS JUSTIFIED IN USING DEADLY FORCE IF:**

23                               **(1) THE POLICE OFFICER ACTUALLY AND REASONABLY BELIEVES**  
 24 **THAT DEADLY FORCE IS IMMEDIATELY NECESSARY TO PROTECT THE POLICE**  
 25 **OFFICER OR ANOTHER PERSON FROM THE THREAT OF SERIOUS BODILY INJURY OR**  
 26 **DEATH;**

27                               **(2) THE POLICE OFFICER’S ACTIONS ARE REASONABLE GIVEN THE**  
 28 **TOTALITY OF THE CIRCUMSTANCES; AND**

1           **(3) ALL OTHER REASONABLE MEANS OF DEFENSE HAVE BEEN**  
2 **EXHAUSTED.**

3           **(D) A TRIER OF FACT SHALL CONSIDER THE FOLLOWING FACTORS AS PART**  
4 **OF THE TOTALITY OF THE CIRCUMSTANCES WHEN ASSESSING WHETHER THE POLICE**  
5 **OFFICER'S BELIEFS AND ACTIONS WERE REASONABLE:**

6           **(1) WHETHER THE POLICE OFFICER ENGAGED IN DE-ESCALATION**  
7 **MEASURES, INCLUDING TAKING COVER, WAITING FOR BACKUP, TRYING TO CALM**  
8 **THE PERSON, OR USING LESS LETHAL TYPES OF FORCE PRIOR TO THE USE OF**  
9 **DEADLY FORCE, IF SUCH MEASURES WERE REASONABLE; AND**

10           **(2) WHETHER ANY CONDUCT BY THE POLICE OFFICER INCREASED**  
11 **THE RISK OF A CONFRONTATION.**

12           **(E) (1) A POLICE OFFICER MAY NOT USE A CHOKE HOLD, NECK HOLD,**  
13 **STRANGLEHOLD, OR ANY OTHER RESTRAINT OF THE CAROTID ARTERY EXCEPT TO**  
14 **COUNTER AN IMMINENT THREAT OF SERIOUS BODILY INJURY OR DEATH TO THE**  
15 **POLICE OFFICER.**

16           **(2) A POLICE OFFICER WHO KNOWS OR REASONABLY SHOULD KNOW**  
17 **THAT ANOTHER POLICE OFFICER IS USING A RESTRAINT OF A PERSON'S CAROTID**  
18 **ARTERY OR INTENDS TO USE A RESTRAINT OF A PERSON'S CAROTID ARTERY SHALL**  
19 **MAKE A REASONABLE ATTEMPT TO INTERVENE TO TERMINATE OR PREVENT THE**  
20 **OTHER POLICE OFFICER'S USE OF THE RESTRAINT.**

21           **(F) A POLICE OFFICER MAY USE DEADLY FORCE DIRECTED AT A MOVING**  
22 **VEHICLE ONLY:**

23           **(1) TO COUNTER AN IMMINENT THREAT OF SERIOUS BODILY INJURY**  
24 **OR DEATH TO THE POLICE OFFICER OR ANOTHER PERSON BY A PERSON INSIDE THE**  
25 **MOVING VEHICLE;**

26           **(2) IF ALL OTHER REASONABLE MEANS OF DEFENSE HAVE BEEN**  
27 **EXHAUSTED; AND**

28           **(3) IF THE POLICE OFFICER HAS MADE REASONABLE EFFORTS TO**  
29 **AVOID BEING IN THE PATH OF THE MOVING VEHICLE.**

30           **(G) A TRIER OF FACT SHALL CONSIDER THE REASONABLENESS OF THE**  
31 **DEFENDANT POLICE OFFICER'S BELIEFS AND ACTIONS FROM THE PERSPECTIVE OF**  
32 **A REASONABLE POLICE OFFICER.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2021.