



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 108**

June 1, 2021 – Offered by Representatives STEINEKE and STUBBS.

1 **AN ACT** *to create* 175.44 of the statutes; **relating to:** use of force by law
2 enforcement officers and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill provides standards for the use of physical force by law enforcement officers and provides requirements for and protection to law enforcement officers who report the use of noncompliant force.

The bill outlines when it is permissible for a law enforcement officer to use force against another person and requires a law enforcement officer to report and intervene when he or she witnesses a noncompliant use of force by another law enforcement officer.

The bill provides that law enforcement officers are required to make every effort to preserve and protect human life and the safety of all persons. Under the bill, a law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including the severity of the alleged crime at issue, whether the suspect poses an imminent threat to the safety of law enforcement officers or others, and whether the suspect is actively resisting or attempting to evade arrest by flight. Under the bill, a law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective and only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. When using force, a law enforcement

officer is required to act in good faith to achieve a legitimate law enforcement objective.

The bill provides that if a law enforcement officer witnesses a noncompliant use of force by another officer, he or she must report that force, and, if it is safe to do so, he or she must also intervene to stop the noncompliant use of force, and then report the intervention. Under the bill, a person who intentionally fails to comply with reporting requirements may be fined not more than \$1,000 or imprisoned not more than six months or both.

Additionally, the bill provides that no law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported a noncompliant use of force.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 175.44 of the statutes is created to read:

2 **175.44 Law enforcement use of force. (1) DEFINITIONS.** In this section:

3 (a) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).

4 (b) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

5 **(2) USE OF FORCE.** (a) *The sanctity of human life.* In serving the community,
6 law enforcement officers shall make every effort to preserve and protect human life
7 and the safety of all persons. Law enforcement officers shall also respect and uphold
8 the dignity of all persons at all times in a nondiscriminatory manner.

9 (b) *Use of force.* When using force, a law enforcement officer is required to act
10 in good faith to achieve a legitimate law enforcement objective. A law enforcement
11 officer is authorized to use force that is objectively reasonable based on the totality
12 of the circumstances, including:

13 1. The severity of the alleged crime at issue.

14 2. Whether the suspect poses an imminent threat to the safety of law
15 enforcement officers or others.

1 3. Whether the suspect is actively resisting or attempting to evade arrest by
2 flight.

3 (c) *Deadly force*. A law enforcement officer may use deadly force only as a last
4 resort when the law enforcement officer reasonably believes that all other options
5 have been exhausted or would be ineffective. A law enforcement officer may use
6 deadly force only to stop behavior that has caused or imminently threatens to cause
7 death or great bodily harm to the law enforcement officer or another person. If both
8 practicable and feasible, a law enforcement officer shall give a verbal warning before
9 using deadly force.

10 **(3) DUTY TO REPORT NONCOMPLIANT USE OF FORCE.** (a) A law enforcement officer
11 who, in the course of his or her law enforcement duties, witnesses another law
12 enforcement officer use force that does not comply with the standards under sub. (2)
13 (b) or (c) in the course of that law enforcement officer's official duties shall report the
14 noncompliant use of force as soon as is practicable after the occurrence of the use of
15 such force.

16 (b) A person who intentionally fails to report a noncompliant use of force as
17 required under par. (a) may be fined not more than \$1,000 or imprisoned not more
18 than 6 months or both.

19 **(4) DUTY TO INTERVENE.** (a) A law enforcement officer shall, without regard for
20 chain of command, intervene to prevent or stop another law enforcement officer from
21 using force that does not comply with the standards under sub. (2) (b) or (c) in the
22 course of that law enforcement officer's official duties if all of the following apply:

23 1. The law enforcement officer observes the use of force or reasonably should
24 have observed the use of force that does not comply with the standards under sub.
25 (2) (b) or (c).

2. The circumstances are such that it is safe for the law enforcement officer to intervene.

(b) A law enforcement officer who intervenes as required under par. (a) shall report the intervention to his or her immediate supervisor as soon as is practicable after the occurrence of the use of such force.

(c) A person who intentionally fails to report an intervention as required under par. (b) may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(5) WHISTLEBLOWER PROTECTIONS. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under sub. (3) or (4); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under sub. (3) or (4).

(END)