

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3519

By: Goodwin

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5  
6 AS INTRODUCED

7 An Act relating to deadly and excessive force;  
8 amending 21 O.S. 2011, Section 732, which relates to  
9 justifiable deadly force by an officer; modifying  
10 elements that justify the use of deadly force;  
11 prohibiting the use of deadly force under certain  
12 circumstances; directing peace officers to exercise  
13 use of force judiciously; requiring peace officers to  
14 evaluate each situation and use certain tactics and  
15 resources when possible; providing guidelines for  
16 officers when arresting or attempting to make an  
17 arrest; defining terms; amending 22 O.S. 2011,  
18 Section 34.1, which relates to excessive force by a  
19 peace officer; clarifying circumstances that  
20 authorize the use of excessive force; and providing  
21 an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 21 O.S. 2011, Section 732, is  
24 amended to read as follows:

Section 732. A. A peace officer, ~~or~~ or correctional officer, or  
any person acting by his or her command in his or her aid and  
assistance, is justified in using deadly force when the officer  
reasonably believes, based on the totality of the circumstances,  
that such force is necessary for any of the following reasons:

1        1. ~~The officer is~~ When acting in obedience to and in accordance  
2 with any judgment of a competent court in executing a penalty of  
3 death; ~~or~~

4        2. ~~In effecting an arrest or preventing an escape from custody~~  
5 ~~following arrest and~~ When defending against an imminent threat of  
6 death or serious bodily injury to the officer or to another person;  
7 or

8        3. When apprehending a fleeing person for any felony that  
9 threatened or resulted in death or serious bodily injury to another  
10 person, if the officer reasonably believes both that:

11            a. ~~such force is necessary to prevent the arrest from~~  
12            ~~being defeated by resistance or escape, and~~

13            b. ~~there is probable cause to believe that the person to~~  
14            ~~be arrested has committed a crime involving the~~  
15            ~~infliction or threatened infliction of~~ the person will  
16            cause death or serious bodily harm, or injury to  
17            another unless immediately apprehended. Where  
18            feasible, the officer shall, prior to the use of  
19            force, make reasonable efforts to identify himself or  
20            herself as an officer and to warn that deadly force  
21            may be used. ~~the person to be arrested is attempting~~  
22            ~~to escape by use of a deadly weapon, or otherwise~~  
23            ~~indicates that he will endanger human life or inflict~~  
24            ~~great bodily harm unless arrested without delay; or~~

1       ~~3.~~

2       ~~B. 1. The officer is in the performance of his legal duty or~~  
3 ~~the execution of legal process and reasonably believes the use of~~  
4 ~~the force is necessary to protect himself or others from the~~  
5 ~~infliction of~~ shall not use deadly force against a person based on  
6 the danger that person poses to himself or herself, if an  
7 objectively reasonable officer would believe the person does not  
8 pose an imminent threat of death or serious bodily harm; ~~or~~

9       ~~4. The force is necessary to prevent an escape from a penal~~  
10 ~~institution or other place of confinement used primarily for the~~  
11 ~~custody of persons convicted of felonies or from custody while in~~  
12 ~~transit thereto or therefrom unless the officer has reason to know:~~

- 13           ~~a. the person escaping is not a person who has committed~~  
14           ~~a felony involving violence, and~~
- 15           ~~b. the person escaping is not likely to endanger human~~  
16           ~~life or to inflict serious bodily harm if not~~  
17           ~~apprehended~~ injury to the officer or to another  
18           person.

19       2. The authority of peace officers to use physical or deadly  
20 force is a serious responsibility that shall be exercised  
21 judiciously with respect for human rights, dignity and the sanctity  
22 of every human life.

23       3. Peace officers shall use deadly force only when necessary in  
24 defense of human life. In determining whether deadly force is

1 necessary, an officer shall evaluate the particular circumstances of  
2 each situation and use de-escalation tactics and available resources  
3 when reasonably safe and feasible for an objectively reasonable  
4 officer to do so.

5 C. An officer who makes or attempts to make an arrest need not  
6 retreat or desist from his or her efforts by reason of the  
7 resistance or threatened resistance of the person being arrested.  
8 An officer shall not be deemed an aggressor or lose the right to  
9 self-defense by the use of objectively reasonable force in  
10 compliance with subsections A and B of this section to effect the  
11 arrest or to prevent escape or to overcome resistance. For the  
12 purposes of this subsection, "retreat" does not mean tactical  
13 repositioning or other deescalation tactics.

14 D. For purposes of this section:

15 1. "Deadly force" means any use of force that creates a  
16 substantial risk of causing death or serious bodily injury  
17 including, but not limited to, the discharge of a firearm;

18 2. A threat of death or serious bodily injury is "imminent"  
19 when, based on the totality of circumstances, a reasonable officer  
20 in the same situation would believe that a person has the present  
21 ability, opportunity and apparent intent to immediately cause death  
22 or serious bodily injury to the officer or to another person. An  
23 imminent harm is not merely a fear of future harm, no matter how  
24 great the fear and no matter how great the likelihood of the harm,

1 but one that, from appearances, must be instantly confronted and  
2 addressed; and

3 3. "Totality of the circumstances" means all facts known to the  
4 officer at the time, including the conduct of the officer and the  
5 subject leading up to the use of deadly force.

6 SECTION 2. AMENDATORY 22 O.S. 2011, Section 34.1, is  
7 amended to read as follows:

8 Section 34.1 A. Any peace officer, as defined in Section 648  
9 of Title 21 of the Oklahoma Statutes, who has reasonable cause to  
10 believe that a person to be arrested has committed a public offense  
11 may use objectively reasonable force to effect the arrest, to  
12 prevent escape or to overcome resistance. Any peace officer who  
13 uses excessive force in pursuance of such officer's law enforcement  
14 duties shall be subject to the criminal laws of this state to the  
15 same degree as any other citizen.

16 B. As used in this act, "excessive force" means physical force  
17 which exceeds the degree of physical force permitted by law or the  
18 policies and guidelines of the law enforcement entity. The use of  
19 excessive force shall be presumed when a peace officer continues to  
20 apply physical force in excess of the force permitted by law or said  
21 policies and guidelines to a person who has been rendered incapable  
22 of resisting arrest.

23 C. Each law enforcement entity which employs any peace officer  
24 shall adopt policies or guidelines concerning the use of force by

1 peace officers which shall be complied with by peace officers in  
2 carrying out the duties of such officers within the jurisdiction of  
3 the law enforcement entity.

4 SECTION 3. This act shall become effective November 1, 2020.

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