



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1260/7
CMH:amn

2017 ASSEMBLY BILL 438

July 14, 2017 - Introduced by Representatives C. TAYLOR, GOYKE, BOWEN, ANDERSON, CROWLEY, BERCEAU, OHNSTAD, SARGENT, CONSIDINE and KESSLER, cosponsored by Senators JOHNSON and RISSER. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to renumber and amend* 66.0511 (2); and *to create* 66.0511 (2) (a), (b),
2 (c) and (d) and (4) and 165.85 (4m) of the statutes; **relating to:** law enforcement
3 agency policies on the use of force.

Analysis by the Legislative Reference Bureau

This bill requires each law enforcement agency to ensure that its publicly available policy on the use of force incorporates the following principles: that the primary duty of all law enforcement is to preserve the life of all individuals; that deadly force is to be used only as the last resort; that officers should use skills and tactics that minimize the likelihood that force will become necessary; that, if officers must use physical force, it should be the least amount of force necessary to safely address the threat; and that law enforcement officers must take reasonable action to stop or prevent any unreasonable use of force by their colleagues. This bill also prohibits disciplining a law enforcement officer who reports a violation of a law enforcement agency's policy regarding the use of force.

This bill also requires the Law Enforcement Standards Board to develop a model use of force policy for law enforcement agencies. The model policy must address interactions with individuals with mental disorders, alcohol or drug problems, dementia disorders, and developmental disabilities; limit the use of force against vulnerable populations; and include other best practices that LESB identifies.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 66.0511 (2) of the statutes is renumbered 66.0511 (2) (intro.) and
2 amended to read:

3 66.0511 **(2)** USE OF FORCE POLICY. (intro.) Each person in charge of a law
4 enforcement agency shall prepare in writing and make available for public scrutiny
5 a policy or standard regulating the use of force by law enforcement officers in the
6 performance of their duties. The law enforcement agency shall provide in its policy
7 the instances in which a use of force must be reported, how to report a use of force,
8 and a requirement that officers who engage in or observe a reportable use of force
9 report it. Each policy or standard shall incorporate the following principles:

10 **SECTION 2.** 66.0511 (2) (a), (b), (c), (d) and (e) and (4) of the statutes are created
11 to read:

12 66.0511 **(2)** (a) That the primary duty of all law enforcement is to preserve the
13 life of all individuals.

14 (b) That deadly force is to be used only as a last resort.

15 (c) That officers should use skills and tactics, including de-escalation tactics,
16 that minimize the likelihood that force will become necessary.

17 (d) That, if law enforcement officers must use physical force, it should be the
18 least amount of force necessary to safely address the threat.

19 (e) That law enforcement officers shall take reasonable action to stop or prevent
20 any unreasonable use of force by their colleagues.

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(4) 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 violation of a policy under sub. (2); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a violation of a policy under sub. (2); or provided any information, or is believed to have provided any information, about a violation of a policy under sub. (2).

SECTION 3. 165.85 (4m) of the statutes is created to read:

165.85 (4m) BEST PRACTICES. The board shall develop, and review at least once every 2 years, a model use of force policy for law enforcement agencies that does all of the following:

(a) Incorporates the principles under s. 66.0511 (2).

(b) Addresses interactions with individuals with mental disorders, alcohol or drug problems, dementia disorders, and developmental disabilities.

(c) Limits the use of force against vulnerable populations, including children, elderly individuals, pregnant women, individuals with physical or mental disabilities, and individuals with limited English proficiency.

(d) Includes other best practices that the board identifies.

(END)