

By Senator Bracy

11-00495-20

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1                   A bill to be entitled  
2       An act relating to use of force by law enforcement  
3       officers; amending s. 776.05, F.S.; defining terms;  
4       revising the circumstances under which a law  
5       enforcement officer is authorized to use objectively  
6       reasonable force; revising the circumstances under  
7       which a law enforcement officer is authorized to use  
8       deadly force; prohibiting a law enforcement officer  
9       from using deadly force against a person under certain  
10       circumstances; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14       Section 1. Section 776.05, Florida Statutes, is amended to  
15       read:

16       776.05 Law enforcement officers; use of force in making an  
17       arrest.—

18       (1) As used in this section, the term:

19       (a) "Deadly force" means any use of force that creates a  
20       substantial risk of causing death or serious bodily injury,  
21       including, but not limited to, the discharge of a firearm.

22       (b) "Imminent," in the case of a threat of death or serious  
23       bodily injury, means when, based on the totality of the  
24       circumstances, a reasonable law enforcement officer in the same  
25       situation would believe that a person has the present ability,  
26       opportunity, and apparent intent to immediately cause death or  
27       serious bodily harm to the law enforcement officer or others. An  
28       imminent harm is not merely a fear of future harm, no matter how  
29       great the fear and no matter how great the likelihood of the

11-00495-20

2020562\_\_

30 harm, but is one that, from appearances, must be instantly  
31 confronted and addressed.

32 (c) "Totality of the circumstances" means all facts known  
33 to the law enforcement officer at the time, including, but not  
34 limited to, the conduct of the officer and the subject leading  
35 up to the use of deadly force.

36 (2) (a) A law enforcement officer, or any person whom the  
37 officer has summoned or directed to assist him or her, need not  
38 retreat or desist from efforts to make a lawful arrest because  
39 of resistance or threatened resistance to the arrest. The  
40 officer may use objectively reasonable ~~is justified in the use~~  
41 ~~of any~~ force:

42 1. (1) That ~~which~~ he or she reasonably believes to be  
43 necessary to defend himself or herself or another from bodily  
44 harm while making the arrest;

45 2. (2) When necessarily committed in retaking felons who  
46 have escaped; or

47 3. (3) When necessarily committed in arresting felons  
48 fleeing from justice.

49 (b) However, This subsection is not ~~shall not constitute a~~  
50 defense in any civil action for damages brought for the wrongful  
51 use of deadly force, unless the use of deadly force was  
52 necessary to prevent the arrest from being defeated by such  
53 flight; ~~and,~~ when feasible, some warning had been given; ~~and:~~

54 1. (a) The officer reasonably believed, based on the  
55 totality of the circumstances, that such force was necessary to  
56 defend against an imminent ~~believes that the fleeing felon poses~~  
57 ~~a~~ threat of death or serious physical harm to the officer or  
58 others posed by the fleeing felon; or

11-00495-20

2020562\_\_

59        2.~~(b)~~ The officer reasonably believed, based on the  
60 totality of the circumstances, that such force was necessary due  
61 to the commission of a crime by ~~believes that~~ the fleeing felon  
62 which involved ~~has committed a crime involving~~ the infliction or  
63 threatened infliction of serious physical harm to another  
64 person.

65  
66 A law enforcement officer may not use deadly force against a  
67 person based on the danger that person poses to the law  
68 enforcement officer, if an objectively reasonable law  
69 enforcement officer would believe that the person does not pose  
70 an imminent threat of death or serious physical harm to the law  
71 enforcement officer or others.

72        Section 2. This act shall take effect July 1, 2020.