

House Bill 1206

By: Representatives Scott of the 76th, Beverly of the 143rd, Schofield of the 60th, Davis of the 87th, McLeod of the 105th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 35 of the Official Code of Georgia Annotated, relating to law enforcement
2 officers and agencies, so as to require that certain procedures be followed by peace officers
3 upon making contact with individuals for law enforcement purposes; to require all law
4 enforcement agencies provide a body-worn camera to each peace officer of the law
5 enforcement agency; to provide requirements for the activation of body-worn cameras by
6 peace officers; to provide for exceptions; to provide for criminal and civil penalties; to
7 provide for public disclosure of video and audio recordings captured by body-worn cameras;
8 to provide for data collection and annual public reporting by the Attorney General regarding
9 use of force and contacts with peace officers; to provide for civil enforcement in the Attorney
10 General for patterns or practices that deprive persons of rights, privileges, or immunities
11 secured or protected by law; to provide standards for response of peace officers to protests
12 or demonstrations; to amend Article 2 of Chapter 21 of Title 50 of the Official Code of
13 Georgia Annotated, relating to state tort claims, so as to remove certain immunities from the
14 actions of certain law enforcement officers; to provide that law enforcement officers alleged
15 to have committed misconduct or a violation of law while acting within the scope of his or
16 her official duties or employment shall be subject to lawsuit or liability; to amend Article 2
17 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest by law
18 enforcement officers generally, so as to revise use of force standards; to prohibit certain
19 tactics and techniques; to provide for a duty to intervene for peace officers to prevent or stop
20 another peace officer from using excessive force; to provide for a short title; to provide for
21 related matters; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **PART I**
24 **SECTION 1-1.**

25 This Act shall be known and may be cited as the "Police Accountability Act."

26

PART II

27

SECTION 2-1.

28 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
29 agencies, is amended by adding a new chapter to read as follows:

30

"CHAPTER 1A31 35-1A-1.32 As used in this chapter, the term:

33 (1) 'Contacts' means an interaction with an individual, whether or not the person is in a
34 motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the
35 purpose of enforcing the law or investigating possible violations of the law. Such term
36 shall not include routine interactions with the public at the point of entry or exit from a
37 controlled area.

38 (2) 'Demographic information' means race, ethnicity, sex, and approximate age.

39 (3) 'Law enforcement agency' means any agency, organ, or department of this state, or
40 a subdivision or municipality thereof, whose primary functions include the enforcement
41 of criminal or traffic laws; the preservation of public order; the protection of life and
42 property; or the prevention, detection, or investigation of crime, including, but not limited
43 to, any department or unit organized by a college or university for purposes of Chapter 8
44 of Title 20.

45 (4) 'Peace officer' means any person appointed or employed in conformity with
46 Chapter 8 of Title 35.

47 (5) 'Serious bodily injury' means bodily injury which, either at the time of the actual
48 injury or at a later time, involves a substantial risk of death, a substantial risk of serious
49 permanent disfigurement, a substantial risk of protracted loss or impairment of the
50 function of any part or organ of the body, or breaks, fractures, or burns of the second or
51 third degree.

52 35-1A-2.

53 (a) On and after January 1, 2021, every peace officer shall provide, without being asked,
54 the peace officer's business card to any person whom the peace officer has detained in a
55 traffic stop but has not cited or arrested. The business card shall include identifying
56 information about the peace officer, including, but not limited to, the peace officer's name,
57 division, precinct, and badge or other identification number; a telephone number that may

58 be used, if necessary, to report any comments, positive or negative, regarding the traffic
 59 stop; and information about how to file a complaint related to the contact.

60 (b) A peace officer shall have a legal basis for making a contact, whether consensual or
 61 nonconsensual, for the purpose of enforcing the law or investigating possible violations of
 62 the law. After making a contact, a peace officer shall report to the law enforcement agency
 63 employing such peace officer:

64 (1) The perceived demographic of the person contacted, provided that the identification
 65 of these characteristics is based on the observation and perception of the peace officer
 66 making the contact and other available data;

67 (2) Whether the contact was a traffic stop;

68 (3) The time, date, and location of the contact;

69 (4) The duration of the contact;

70 (5) The reason for the contact;

71 (6) The suspected crime; and

72 (7) The result of the contact, such as:

73 (A) No action, warning, citation, property seizure, or arrest;

74 (B) If a warning or citation was issued, the warning provided or violation cited;

75 (C) If an arrest was made, the offense charged;

76 (D) If the contact was a traffic stop, the information collected, which is limited to the
 77 driver; and

78 (E) The actions taken by the peace officer during the contact, including, but not limited
 79 to, whether:

80 (i) The peace officer asked for consent to search the person, and, if so, whether
 81 consent was provided;

82 (ii) The peace officer searched the person or any property and, if so, the basis for the
 83 search and the type of contraband or evidence discovered, if any; and

84 (iii) The peace officer seized any property, and, if so, the type of property that was
 85 seized and the basis for seizing the property.

86 35-1A-3.

87 (a) On and after July 1, 2023, all law enforcement agencies shall provide a body-worn
 88 camera to each peace officer of the law enforcement agency.

89 (b)(1) Except as provided for under paragraph (2) of this subsection, on and after
 90 July 1, 2023, every peace officer shall wear and activate a body-worn camera when
 91 responding to a call for service or during any interaction with the public initiated by the
 92 peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law
 93 or investigating possible violations of the law.

94 (2)(A) A peace officer may turn off a body-worn camera to avoid recording personal
95 information that is not case related; when working on an unrelated assignment; when
96 there is a long break in the incident or contact that is not related to the initial incident;
97 and in administrative, tactical, and management discussions.

98 (B) A peace officer shall not need to wear or activate a body-worn camera if the peace
99 officer is working undercover.

100 (c) If a peace officer fails to activate a body-worn camera as required by this Code section
101 or tampers with body-worn or dash-camera footage or operation when required to activate
102 the camera, there shall be a permissive inference in any investigation or legal proceeding,
103 excluding criminal proceedings against the peace officer, that the missing footage would
104 have reflected misconduct by the peace officer. If a peace officer fails to activate or
105 reactivate his or her body-worn camera, any statements sought to be introduced in a
106 prosecution through the peace officer related to the incident that were not recorded due to
107 the peace officer's failure to activate or reactivate the body-worn camera as required by this
108 Code section shall be presumptively inadmissible. Notwithstanding any other provision
109 of law, this subsection shall not apply if the body-worn camera was not activated due to a
110 malfunction of the body-worn camera and the peace officer was not aware of the
111 malfunction prior to the incident.

112 (d)(1) In addition to any criminal liability and penalty under the law, if a court,
113 administrative law judge, or through a final decision in an internal investigation finds that
114 a peace officer intentionally failed to activate a body-worn camera or tampered with any
115 body-worn or dash camera, except as permitted in this subsection, the peace officer's
116 employer shall impose discipline up to and including termination.

117 (2) In addition to any criminal liability and penalty under the law, if a court,
118 administrative law judge, or through a final decision in an internal investigation finds that
119 a peace officer intentionally failed to activate a body-worn camera or tampered with any
120 body-worn or dash camera, except as permitted in this subsection, with the intent to
121 conceal unlawful or inappropriate actions or obstruct justice, the Georgia Peace Officer
122 Standards and Training Council shall suspend the peace officer's certification for a period
123 of not less than one year and the suspension may only be lifted within the period of the
124 suspension if the peace officer is exonerated by a court.

125 (3) In addition to any criminal liability and penalty under the law, if a court,
126 administrative law judge, or through a final decision in an internal investigation finds that
127 a peace officer intentionally failed to activate a body-worn camera or tampered with any
128 body-worn or dash camera, except as permitted in this section, with the intent to conceal
129 unlawful or inappropriate actions, or obstruct justice, in an incident resulting in a civilian
130 death, the Georgia Peace Officer Standards and Training Council shall permanently

131 revoke the peace officer's certification and the revocation may only be overturned if the
132 peace officer is exonerated by a court.

133 (e) Law enforcement agencies shall establish and follow a retention schedule for
134 body-worn camera recordings in compliance with Article 5 of Chapter 18 of Title 50.

135 (f)(1) Notwithstanding any other provision of law, for all incidents in which there is a
136 complaint of peace officer misconduct by another peace officer, a civilian, or a nonprofit
137 organization, through notice to the law enforcement agency involved in the alleged
138 misconduct, the law enforcement agency shall release all unedited video and audio
139 recordings of the incident, including those from body-worn cameras, dash cameras, or
140 otherwise collected through investigation, to the public within 21 days after the law
141 enforcement agency received the complaint of misconduct.

142 (2) Notwithstanding any other provision of law, all video and audio recordings depicting
143 a death shall be provided to the decedent's family at least 24 hours prior to public
144 disclosure.

145 (3)(A) Notwithstanding any other provision of this subsection, any video that raises
146 substantial privacy concerns for defendants, victims, witnesses, juveniles, or
147 informants, including, but not limited to, video depicting nudity; a sexual assault; a
148 medical emergency; a mental health crisis; a victim interview; a minor, including any
149 images or information that might undermine the requirement to keep certain juvenile
150 records confidential; personal information other than the name or license plate of any
151 person not arrested, cited, charged, or issued a written warning, including a
152 government-issued identification number, date of birth, address, or financial
153 information; significantly explicit and gruesome bodily injury, unless the injury was
154 caused by a peace officer; or the interior of a home or treatment facility, shall be
155 redacted or blurred to protect the substantial privacy interest while still allowing public
156 release.

157 (B) If redaction or blurring is insufficient to protect the substantial privacy interest, the
158 law enforcement agency shall release the video to the victim or, if the victim is
159 deceased, to the victim's family within 21 days after receipt of the complaint of
160 misconduct.

161 (C) A witness, victim, or defendant may waive in writing the individual privacy
162 interest that may be implicated by public release. Upon receipt of a written waiver of
163 the applicable privacy interest, accompanied by a request for release, the law
164 enforcement agency shall not redact or withhold release to protect that privacy interest.

165 (4) Any video that would substantially interfere with or jeopardize an active or ongoing
166 investigation may be withheld from the public, except that the video shall be released no
167 later than 30 days from the date of the allegation of misconduct. In all cases when release

168 of a video is delayed in reliance on this subsection, the prosecuting attorney shall prepare
 169 a written explanation of the interference or jeopardy that justifies the delayed release,
 170 contemporaneous with the refusal to release the video. Upon release of the video, the
 171 prosecuting attorney shall release the written explanation to the public.

172 (5) If criminal charges have been filed against any party to the incident, that party must
 173 file any constitutional objection to release of the recording in the pending criminal case
 174 before the 21 day period provided for in paragraph (1) of this subsection expires. The
 175 court shall hold a hearing on any objection no later than seven days after it is filed and
 176 issue a ruling no later than three days after the hearing.

177 35-1A-4.

178 (a) On and after July 1, 2023, the Attorney General shall create an annual report including
 179 all of the information that is reported to the Attorney General pursuant to subsection (b) of
 180 this Code section, aggregated and broken down by the law enforcement agency that
 181 employs peace officers, along with the underlying data.

182 (b) Beginning January 1, 2023, and on January 1 in each year thereafter, each law
 183 enforcement agency that employs peace officers shall report to the Attorney General:

184 (1) All use of force by its peace officers that results in death or serious bodily injury,
 185 including:

186 (A) The date, time, and location of the use of force;

187 (B) The perceived demographic of the person contacted, provided that the
 188 identification of these characteristics is based on the observation and perception of the
 189 peace officer;

190 (C) The names of all peace officers who were at the scene, identified by whether the
 191 peace officer was involved in the use of force or not;

192 (D) The type of force used, the severity and nature of the injury, whether the peace
 193 officer suffered physical injury, and the severity of the peace officer's injury;

194 (E) Whether the peace officer was on duty at the time of the use of force;

195 (F) Whether the use of force resulted in a law enforcement agency investigation and
 196 the result of the investigation; and

197 (G) Whether the use of force resulted in a citizen complaint and the resolution of that
 198 complaint;

199 (2) All instances when a peace officer resigned while under investigation for violating
 200 a policy of the law enforcement agency;

201 (3) All data relating to contacts conducted by its peace officers, including:

- 202 (A) The perceived demographic of the person contacted, provided that the
 203 identification of these characteristics is based on the observation and perception of the
 204 peace officer making the contact and other available data;
- 205 (B) Whether the contact was a traffic stop;
- 206 (C) The time, date, and location of the contact;
- 207 (D) The duration of the contact;
- 208 (E) The reason for the contact;
- 209 (F) The suspected crime;
- 210 (G) The result of the contact, such as:
- 211 (i) No action, warning, citation, property seizure, or arrest;
 212 (ii) If a warning or citation was issued, the warning provided or violation cited;
 213 (iii) If an arrest was made, the offense charged; or
 214 (iv) If the contact was a traffic stop, the information collected, which is limited to the
 215 driver;
- 216 (H) The actions taken by the peace officer during the contact, including, but not limited
 217 to, whether:
- 218 (i) The peace officer asked for consent to search the person, and, if so, whether
 219 consent was provided;
- 220 (ii) The peace officer searched the person or any property, and, if so, the basis for the
 221 search and the type of contraband or evidence discovered, if any; and
- 222 (iii) The peace officer seized any property and, if so, the type of property that was
 223 seized and the basis for seizing the property; and
- 224 (4) All instances of unannounced entry into a residence, with or without a warrant,
 225 including:
- 226 (A) The date, time, and location of the use of unannounced entry; and
- 227 (B) The perceived demographic of the subject of the unannounced entry, provided that
 228 the identification of these characteristics is based on the observation and perception of
 229 the peace officer making the entry and other available data.
- 230 (c) The Attorney General and law enforcement agencies shall not report the name, address,
 231 social security number, or other unique personal identifying information of the subject of
 232 the use of force, victim of the official misconduct, or persons contacted, searched, or
 233 subjected to a property seizure. Notwithstanding any provision of law to the contrary, the
 234 data reported pursuant to this Code section shall be available to the public pursuant to
 235 subsection (d) of this Code section.
- 236 (d) The Attorney General shall maintain a state-wide database with data collected pursuant
 237 to this Code section, in a searchable format, and publish the database on his or her official
 238 website.

239 (e) Law enforcement agencies which do not comply with the requirements of this Code
240 section are subject to the withholding of state funding or state administered federal funding.

241 35-1A-5.

242 It shall be unlawful for any governmental authority, or any agent thereof, or any person
243 acting on behalf of a governmental authority, to engage in a pattern or practice of conduct
244 by peace officers or by officials or employees of any governmental agency that deprives
245 persons of rights, privileges, or immunities secured or protected by the Constitution or laws
246 of this state or the Constitution or laws of the United States. Whenever the Attorney
247 General has reasonable cause to believe that a violation of this Code section has occurred,
248 the Attorney General, for or in the name of this state, may in a civil action obtain any and
249 all appropriate relief to eliminate the pattern or practice.

250 35-1A-6.

251 Notwithstanding any provision of law and pursuant to the authority provided for under
252 Code Section 35-8-7.1, if any peace officer is convicted of or pleads guilty or nolo
253 contendere to a crime involving the unlawful use or threatened use of physical force, or is
254 found civilly liable for using excessive force, the Georgia Peace Officer Standards and
255 Training Council shall permanently revoke the peace officer's certification. The Georgia
256 Peace Officer Standards and Training Council shall not, under any circumstances, reinstate
257 the peace officer's certification or grant new certification to the peace officer unless the
258 peace officer is exonerated by a court. The Georgia Peace Officer Standards and Training
259 Council shall record each decertified peace officer in the database created pursuant to Code
260 Section 35-1A-4.

261 35-1A-7.

262 In response to a protest or demonstration, a law enforcement agency and any person acting
263 on behalf of the law enforcement agency shall not:

264 (1) Discharge kinetic impact projectiles and all other nonlethal or less lethal projectiles
265 in a manner that targets the head, pelvis, or back;

266 (2) Discharge kinetic impact projectiles indiscriminately into a crowd; or

267 (3) Use chemical agents or irritants, including pepper spray and tear gas, prior to issuing
268 an order to disperse in a sufficient manner to ensure the order is heard and repeated if
269 necessary, followed by sufficient time and space to allow compliance with the order.

270

PART III

271

SECTION 3-1.

272 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to
 273 state tort claims, is amended by revising paragraph (7) of Code Section 50-21-24, relating
 274 to exceptions to state liability, as follows:

275 ~~"(7) Assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of~~
 276 ~~process, libel~~ Libel, slander, or interference with contractual rights;"

277

SECTION 3-2.

278 Said article is further amended by revising subsection (a) of Code Section 50-21-25, relating
 279 to immunity of state officers or employees for acts within scope of official duties or
 280 employment, officer or employee not named in action against state, and settlement or
 281 judgment, as follows:

282 "(a) This article constitutes the exclusive remedy for any tort committed by a state officer
 283 or employee. A state officer or employee who commits a tort while acting within the scope
 284 of his or her official duties or employment is not subject to lawsuit or liability therefor;
 285 provided, however, that a law enforcement officer who is alleged to have committed
 286 misconduct or a violation of law while acting within the scope of his or her official duties
 287 or employment shall be subject to lawsuit or liability. However, nothing in this article shall
 288 be construed to give a state officer or employee immunity from suit and liability if it is
 289 proved that the officer's or employee's conduct was not within the scope of his or her
 290 official duties or employment."

291

SECTION 3-3.

292 Said article is further amended by adding a new Code section to read as follows:

293 "50-21-25.1.

294 (a) As used in this Code section, the term 'law enforcement officer' means any agent or
 295 officer of this state, a political subdivision or municipality of this state, an authority of this
 296 state, or a college or university who, as a full-time or part-time employee, is vested either
 297 expressly by law or by virtue of public employment or service with authority to enforce the
 298 criminal or traffic laws through the power of arrest and whose duties include the
 299 preservation of public order, the protection of life and property, or the prevention,
 300 detection, or investigation of crime.

301 (b) A law enforcement officer who, under color of law, subjects or causes to be subjected
 302 any other person to the deprivation of any individual rights secured by the Constitution of
 303 this state or the Constitution of the United States by, including, but not limited to, failing

304 to intervene, shall be liable to the injured party for legal or equitable relief or any other
 305 appropriate relief.

306 (c) No statutory immunities or immunities at law, including, but not limited to, qualified
 307 immunity, shall be a defense to liability pursuant to this Code section.

308 (d) To the extent necessary for any actions to proceed under this Code section, the defense
 309 of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party
 310 claim brought in the courts of this state by an aggrieved person seeking legal or equitable
 311 relief or any other appropriate relief, including, but not limited to, reasonable attorney fees,
 312 pursuant to this Code section."

313 **PART IV**

314 **SECTION 4-1.**

315 Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to
 316 arrest by law enforcement officers generally, is amended by revising Code Section 17-4-20,
 317 relating to authorization of arrests with and without warrants generally, use of deadly force,
 318 adoption or promulgation of conflicting regulations, policies, ordinances, and resolutions,
 319 and authority of nuclear power facility security officer, as follows:

320 "17-4-20.

321 (a) An arrest for a crime may be made by a law enforcement officer:

322 (1) Under a warrant; or

323 (2) Without a warrant if:

324 (A) The offense is committed in such officer's presence or within such officer's
 325 immediate knowledge;

326 (B) The offender is endeavoring to escape;

327 (C) The officer has probable cause to believe that an act of family violence, as defined
 328 in Code Section 19-13-1, has been committed;

329 (D) The officer has probable cause to believe that the offender has violated a criminal
 330 family violence order, as defined in Code Section 16-5-95; provided, however, that
 331 such officer shall not have any prior or current familial relationship with the alleged
 332 victim or the offender;

333 (E) The officer has probable cause to believe that an offense involving physical abuse
 334 has been committed against a vulnerable adult, who shall be for the purposes of this
 335 subsection a person 18 years old or older who is unable to protect himself or herself
 336 from physical or mental abuse because of a physical or mental impairment; or

337 (F) For other cause there is likely to be failure of justice for want of a judicial officer
 338 to issue a warrant.

339 ~~(b) Sheriffs and peace officers who are appointed or employed in conformity with~~
340 ~~Chapter 8 of Title 35 may use deadly force to apprehend a suspected felon only when the~~
341 ~~officer reasonably believes that the suspect possesses a deadly weapon or any object,~~
342 ~~device, or instrument which, when used offensively against a person, is likely to or actually~~
343 ~~does result in serious bodily injury; when the officer reasonably believes that the suspect~~
344 ~~poses an immediate threat of physical violence to the officer or others, or when there is~~
345 ~~probable cause to believe that the suspect has committed a crime involving the infliction~~
346 ~~or threatened infliction of serious physical harm. Nothing in this Code section shall be~~
347 ~~construed so as to restrict such sheriffs or peace officers from the use of such reasonable~~
348 ~~nondeadly force as may be necessary to apprehend and arrest a suspected felon or~~
349 ~~misdemeanant.~~

350 ~~(c) Nothing in this Code section shall be construed so as to restrict the use of deadly force~~
351 ~~by employees of state and county correctional institutions, jails, and other places of lawful~~
352 ~~confinement or by peace officers of any agency in the State of Georgia when reasonably~~
353 ~~necessary to prevent escapes or apprehend escapees from such institutions.~~

354 ~~(d) No law enforcement agency of this state or of any political subdivision of this state~~
355 ~~shall adopt or promulgate any rule, regulation, or policy which prohibits a peace officer~~
356 ~~from using that degree of force to apprehend a suspected felon which is allowed by the~~
357 ~~statutory and case law of this state.~~

358 ~~(e)~~(b) Each peace officer shall be provided with a copy of this Code section. Training
359 regarding elder abuse, abuse of vulnerable adults, and the requirements of this Code section
360 should be offered as part of at least one in-service training program each year conducted
361 by or on behalf of each law enforcement department and agency in this state.

362 ~~(f)~~(c) A nuclear power facility security officer, including a contract security officer,
363 employed by a federally licensed nuclear power facility or licensee thereof for the purpose
364 of securing that facility shall have the authority to:

- 365 (1) Threaten or use force against another in defense of a federally licensed nuclear power
366 facility and the persons therein as provided for under Code Sections 16-3-21 and 16-3-23;
- 367 (2) Search any person on the premises of the nuclear power facility or the properties
368 adjacent to the facility if the facility is under imminent threat or danger pursuant to a
369 written agreement entered into with the local enforcement agency having jurisdiction
370 over the facility for the purpose of determining if such person possesses unauthorized
371 weapons, explosives, or other similarly prohibited material; provided, however, that if
372 such person objects to any search, he or she shall be detained as provided in paragraph
373 (3) of this subsection or shall be required to immediately vacate the premises. Any
374 person refusing to submit to a search and refusing to vacate the premises of a facility

375 upon the request of a security officer as provided for in this Code section shall be guilty
 376 of a misdemeanor; and
 377 (3) In accordance with a nuclear security plan approved by the United States Nuclear
 378 Regulatory Commission or other federal agency authorized to regulate nuclear facility
 379 security, detain any person located on the premises of a nuclear power facility or on the
 380 properties adjacent thereto if the facility is under imminent threat or danger pursuant to
 381 a written agreement entered into with the local law enforcement agency having
 382 jurisdiction over the facility, where there is reasonable suspicion to believe that such
 383 person poses a threat to the security of the nuclear power facility, regardless of whether
 384 such prohibited act occurred in the officer's presence. In the event of such detention, the
 385 law enforcement agency having jurisdiction over the facility shall be immediately
 386 contacted. The detention shall not exceed the amount of time reasonably necessary to
 387 allow for law enforcement officers to arrive at the facility."

388 **SECTION 4-2.**

389 Said article is further amended by adding new Code sections to read as follows:

390 "17-4-20.2.

391 (a) As used in this Code section, the term 'peace officer' shall have the same meaning as
 392 provided for under Code Section 35-1A-1.

393 (b) Every peace officer, in carrying out their duties, shall apply nonviolent means, when
 394 possible, before resorting to the use of physical force. A peace officer may use physical
 395 force only if nonviolent means would be ineffective in effecting an arrest, preventing an
 396 escape, or preventing an imminent threat of serious bodily injury or death to the peace
 397 officer or another person.

398 (c) When physical force is used, peace officers shall:

399 (1) Not use deadly physical force to apprehend a person who is suspected of only a
 400 minor or nonviolent offense;

401 (2) Use only a degree of force consistent with the minimization of injury to others;

402 (3) Ensure that assistance and medical aid are rendered to any injured or affected persons
 403 as soon as practicable; and

404 (4) Ensure that any identified relatives or next of kin of persons who have sustained
 405 serious bodily injury or death are notified as soon as practicable.

406 (d)(1) As used in this subsection, the term 'chokehold' means a method by which a
 407 person applies sufficient pressure to a person to make breathing difficult or impossible
 408 and includes, but is not limited to, any pressure to the neck, throat, or windpipe that may
 409 prevent or hinder breathing or reduce intake of air.

410 (2) A peace officer who is appointed or employed in conformity with Chapter 8 of
 411 Title 35 shall be prohibited from using a chokehold upon any person in the performance
 412 of his or her official duties.

413 (e) Peace officers shall be justified in using deadly physical force to make an arrest only
 414 when all other means of apprehension are impractical given the circumstances and:

415 (1) The arrest is for a felony involving conduct that includes the use or threatened use
 416 of deadly physical force;

417 (2) There is substantial risk that the person to be arrested will cause death or serious
 418 bodily injury if his or her apprehension is delayed; and

419 (3) The force employed does not create a substantial risk of injury to innocent persons.

420 (f) A peace officer shall identify himself or herself as a peace officer and give a clear
 421 verbal warning of his or her intent to use firearms or other deadly physical force, with
 422 sufficient time for the warning to be observed, unless to do so would unduly place sheriffs
 423 or peace officers at risk of injury, would create a risk of death or injury to other persons,
 424 or would be clearly inappropriate or ineffective under the circumstances.

425 (g) The defenses under Article 2 of Chapter 3 of Title 16 shall apply to any person who
 426 is subject to use of force by a peace officer that is not in conformity with this Code section.

427 17-4-20.3.

428 (a) As used in this Code section, the term:

429 (1) 'Law enforcement agency' shall have the same meaning as provided for under Code
 430 Section 35-1A-1.

431 (2) 'Peace officer' shall have the same meaning as provided for under Code
 432 Section 35-1A-1.

433 (b) A peace officer shall intervene to prevent or stop another peace officer from using
 434 physical force that exceeds the degree of force permitted, if any, pursuant to Code
 435 Section 17-4-20.2, in pursuance of official duties in carrying out an arrest of any person,
 436 placing any person under detention, taking any person into custody, booking any person,
 437 or in the process of crowd control or riot control, without regard for chain of command.

438 (c)(1) A peace officer shall report the intervention to his or her immediate supervisor.

439 (2) At a minimum, the report required by this subsection shall include the date, time, and
 440 place of the occurrence; the identity, if known, and description of the participants; and
 441 a description of the intervention actions taken. Such report shall be made in writing
 442 within ten days of the occurrence of the use of such force and shall be appended to all
 443 other reports of the incident.

444 (d) No member of a law enforcement agency shall discipline or retaliate in any way
 445 against a peace officer for intervening as required by Code section, for reporting

446 unconstitutional or unlawful conduct, or for failing to follow what the officer reasonably
447 believes is an unconstitutional directive.

448 (e) In addition to any criminal liability or penalty under the law, when a court,
449 administrative law judge, or internal investigation finds that a peace officer failed to
450 intervene as required by this Code section in an incident resulting in serious bodily injury
451 or death to any person, the law enforcement agency employing the peace officer shall
452 subject the peace officer to discipline, up to and including termination, and notwithstanding
453 any other provision of law, the Georgia Peace Officer Standards and Training Council shall
454 permanently decertify the sheriff or peace officer upon receipt of notice of the sheriff's or
455 peace officer's discipline. The peace officer may only be recertified if found not guilty by
456 a court of law."

457

PART V

458

SECTION 5-1.

459 All laws and parts of laws in conflict with this Act are repealed.