

House Bill 1613

By: Representatives Shannon of the 84<sup>th</sup>, McLaurin of the 51<sup>st</sup>, Cannon of the 58<sup>th</sup>, Nguyen of the 89<sup>th</sup>, and Kendrick of the 93<sup>rd</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to arrest by law enforcement officers generally, so as to prohibit the use of  
3 maneuvers that restrict blood or oxygen flow to the brain of a person; to amend Chapter 1  
4 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions  
5 regarding law enforcement officers and agencies, so as to require law enforcement agencies  
6 to adopt and implement certain written policies for the use of force by law enforcement  
7 officers; to provide for penalties; to provide for definitions; to provide for the collection,  
8 reporting, and publication of data pertaining to use-of-force incidents by peace officers; to  
9 provide for duties of the Georgia Bureau of Investigation; to amend Article 2 of Chapter 21  
10 of Title 50 of the Official Code of Georgia Annotated, relating to state tort claims, so as to  
11 remove certain immunities from the actions of certain law enforcement officers; to remove  
12 immunity from tort liability for state officers and employees; to provide that officers alleged  
13 to have committed misconduct or a violation of law while acting within the scope of official  
14 duties shall be subject to lawsuit or liability; to provide for related matters; to repeal  
15 conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1613

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17

**SECTION 1.**

18 Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to  
19 arrest by law enforcement officers generally, is amended in Code Section 17-4-20, relating  
20 to authorization of arrests with and without warrants generally, use of deadly force, adoption  
21 or promulgation of conflicting regulations, policies, ordinances, and resolutions, and  
22 authority of nuclear power facility security officer, by revising subsections (b) and (c) as  
23 follows:

24 "(b)(1) Except as provided for in paragraph (2) of this subsection, sheriffs, deputy  
25 sheriffs, Sheriffs and peace officers who are appointed or employed in conformity with  
26 Chapter 8 of Title 35 may use deadly force to apprehend a suspected felon only when the  
27 officer reasonably believes that the suspect possesses a deadly weapon or any object,  
28 device, or instrument which, when used offensively against a person, is likely to or  
29 actually does result in serious bodily injury; when the officer reasonably believes that the  
30 suspect poses an immediate threat of physical violence to the officer or others; or when  
31 there is probable cause to believe that the suspect has committed a crime involving the  
32 infliction or threatened infliction of serious physical harm. Nothing in this Code section  
33 shall be construed so as to restrict such sheriffs, deputy sheriffs, or peace officers from  
34 the use of such reasonable nondeadly force as may be necessary to apprehend and arrest  
35 a suspected felon or misdemeanor.

36 (2) No sheriff, deputy sheriff, or peace officer who is appointed or employed in  
37 conformity with Chapter 8 of Title 35 shall use any maneuver against a person that  
38 restricts blood or oxygen flow to the brain of such person, including, but not limited to,  
39 choke holds, strangleholds, neck restraints, neck holds, or carotid artery restraints.

40 (c) Nothing in this Code section shall be construed so as to restrict the use of deadly force  
41 by employees of state and county correctional institutions, jails, and other places of lawful  
42 confinement or by peace officers of any agency in the State of Georgia when reasonably

43 necessary to prevent escapes or apprehend escapees from such institutions, except as  
44 otherwise provided in paragraph (2) of subsection (b) of this Code section."

45 **SECTION 2.**

46 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general  
47 provisions regarding law enforcement officers and agencies, is amended by adding a new  
48 Code section to read as follows:

49 "35-1-14.1.

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

51 (1) 'Choke hold' means a method by which a person applies sufficient physical pressure  
52 upon the body of another person to make breathing difficult or impossible and includes,  
53 but is not limited to, any pressure to the neck, throat, or trachea that may prevent or  
54 hinder breathing or reduce intake of air. Such term shall also include the application of  
55 physical pressure to either side of a person's neck to stop the flow of blood to the brain  
56 via the carotid arteries.

57 (2) 'Law enforcement agency' means any agency, organ, or department of this state, or  
58 of a political subdivision or municipality thereof, whose primary functions include the  
59 enforcement of criminal or traffic laws, the preservation of public order, the protection  
60 of life and property, or the prevention, detection, or investigation of crime, including, but  
61 not limited to, any department or unit organized by a college or university for purposes  
62 of Chapter 8 of Title 20.

63 (3) 'Law enforcement officer' means any agent or officer of this state or a political  
64 subdivision, municipality, authority, college, or university thereof who, as a full-time or  
65 part-time employee, is vested either expressly by law or by virtue of public employment  
66 or service with authority to enforce criminal or traffic laws through the power of arrest  
67 and whose duties include the preservation of public order, the protection of life and  
68 property, or the prevention, detection, or investigation of crime.

69 (b) On and after January 1, 2023, each law enforcement agency shall adopt and implement  
70 written policies for law enforcement officers which prohibit the use of:

71 (1) Choke holds; and

72 (2) Deadly force unless prior to its use all other alternatives, including, but not limited  
73 to, nonforce and nondeadly force, have been exhausted.

74 (c) Law enforcement agencies that do not comply with the requirements of this Code  
75 section shall be subject to the withholding of state funding and state administered federal  
76 funding."

77 **SECTION 3.**

78 Said chapter is further amended by adding a new Code section to read as follows:

79 "35-1-24.

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

81 (1) 'Law enforcement agency' means any agency, organ, or department of this state, or  
82 of a political subdivision or municipality thereof, whose primary functions include the  
83 enforcement of criminal or traffic laws, the preservation of public order, the protection  
84 of life and property, or the prevention, detection, or investigation of crime, including, but  
85 not limited to, any department or unit organized by a college or university for purposes  
86 of Chapter 8 of Title 20.

87 (2) 'Peace officer' shall have the same meaning as provided for in paragraph (8) of Code  
88 Section 35-8-2.

89 (3) 'Serious bodily injury' means bodily injury which involves or has resulted in a  
90 substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious  
91 disfigurement, or protracted loss or impairment of the function of a bodily member,  
92 organ, or mental faculty.

93 (4) 'Use-of-force incident' means an incident in which:

94 (A) The death of an individual occurs as a result of the use of force by a peace officer;

95 (B) Serious bodily injury to an individual occurs as a result of the use of force by a  
96 peace officer; or

97 (C) In the absence of either death or serious bodily injury, a firearm is discharged by  
98 a peace officer at or in the direction of an individual.

99 (b)(1) On and after January 1, 2023, each law enforcement agency shall collect and  
100 report to the Georgia Bureau of Investigation at least annually, or at more frequent  
101 intervals as determined by rule or regulation of the Georgia Bureau of Investigation,  
102 use-of-force incident data pertaining to peace officers employed by such law enforcement  
103 agency. Except as otherwise provided for in this Code section, such data shall include  
104 such information and be in such form as required by rule or regulation of the Georgia  
105 Bureau of Investigation.

106 (2) The Georgia Bureau of Investigation shall construct and organize such use-of-force  
107 incident data based upon standards provided by the Federal Bureau of Investigation and  
108 make such use-of-force incident data accessible to the Federal Bureau of Investigation;  
109 provided, however, that, if federal law requires the transmission of such use-of-force  
110 incident data to the Federal Bureau of Investigation or any other federal agency, such data  
111 shall be transmitted as requested.

112 (c) No law enforcement agency shall report the personal identifying information of any  
113 peace officer in the data provided for in this Code section.

114 (d) By October 1, 2022, the Georgia Bureau of Investigation shall develop standards, rules,  
115 and procedures governing the collection and reporting of use-of-force incident data under  
116 this Code section.

117 (e) On January 31, 2024, and on January 31 of each year thereafter, the Georgia Bureau  
118 of Investigation shall publish the data reported under subsection (b) of this Code section  
119 for the prior calendar year, including, but not limited to, state-wide aggregate data and  
120 agency-specific data, in a publicly available report on the website of the Georgia Bureau  
121 of Investigation.

122 (f) On January 31, 2026, and on January 31 every five years thereafter, the Georgia Bureau  
123 of Investigation shall release a report that undertakes an analysis of any trends and  
124 disparities in the rates of use of force by law enforcement agencies and peace officers.  
125 Such report shall be publicly available and published on the website of the Georgia Bureau  
126 of Investigation."

127 **SECTION 4.**

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

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

133 **SECTION 5.**

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

138 "(a) This article constitutes the exclusive remedy for any tort committed by a state officer  
139 or employee. ~~A state officer or employee who commits a tort while acting within the scope~~  
140 ~~of his or her official duties or employment is not subject to lawsuit or liability therefor~~ law  
141 enforcement officer who is alleged to have committed misconduct or a violation of law  
142 while acting within the scope of his or her official duties or employment shall be subject  
143 to lawsuit or liability therefor. However, nothing in this article shall be construed to give  
144 a state officer or employee immunity from suit and liability if it is proved that the officer's  
145 or employee's conduct was not within the scope of his or her official duties or employment.

146 As used in this subsection, the term 'law enforcement officer' shall have the same meaning  
147 as set forth in Code Section 50-21-25.1."

148 **SECTION 6.**

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

150 "50-21-25.1.

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

152 (1) 'Intervene' means intercede to prevent or terminate the conduct of another law  
153 enforcement officer.

154 (2) 'Law enforcement officer' means any agent or officer of this state or a political  
155 subdivision, municipality, authority, college, or university thereof who, as a full-time or  
156 part-time employee, is vested either expressly by law or by virtue of public employment  
157 or service with authority to enforce criminal or traffic laws through the power of arrest  
158 and whose duties include the preservation of public order, the protection of life and  
159 property, or the prevention, detection, or investigation of crime.

160 (b) A law enforcement officer who, under color of law, subjects any other person or causes  
161 such other person to be subjected to the deprivation of any individual rights secured by the  
162 Constitution of this state or the Constitution of the United States, including, but not limited  
163 to, by failing to intervene, shall be liable to the injured party for legal or equitable relief or  
164 any other appropriate relief. For purposes of this Code section, a law enforcement officer  
165 fails to intervene when he or she is aware that the conduct of another law enforcement  
166 officer will subject a person to the deprivation of any individual rights secured by the  
167 Constitution of this state or the Constitution of the United States, has an opportunity to  
168 intervene, and fails to do so.

169 (c) Any law enforcement officer who witnesses or intervenes in a violation of this Code  
170 section shall report the incident to a supervisor.

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

173 (e) To the extent necessary for any actions to proceed under this Code section, the defense  
174 of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party  
175 claim brought in the courts of this state by an aggrieved person seeking legal or equitable  
176 relief or any other appropriate relief, including, but not limited to, reasonable attorney's  
177 fees, pursuant to this Code section."

178 **SECTION 7.**

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