

ASSEMBLY, No. 4285

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 18, 2020

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywoman Murphy

SYNOPSIS

Establishes that law enforcement officer who chokes another utilizes deadly force.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/18/2020)

1 AN ACT concerning the use of deadly force and amending
2 N.J.S.2C:3-11.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. N.J.S.2C:3-11 is amended to read as follows:

8 2C:3-11. Definitions. In this chapter, unless a different meaning
9 plainly is required: a. "Unlawful force" means force, including
10 confinement, which is employed without the consent of the person
11 against whom it is directed and the employment of which
12 constitutes an offense or actionable tort or would constitute such
13 offense or tort except for a defense (such as the absence of intent,
14 negligence, or mental capacity; duress, youth, or diplomatic status)
15 not amounting to a privilege to use the force. Assent constitutes
16 consent, within the meaning of this section, whether or not it
17 otherwise is legally effective, except assent to the infliction of death
18 or serious bodily harm.

19 b. "Deadly force" means force which the actor uses with the
20 purpose of causing or which he knows to create a substantial risk of
21 causing death or serious bodily harm. Purposely firing a firearm in
22 the direction of another person or at a vehicle, building, or structure
23 in which another person is believed to be constitutes deadly force
24 unless the firearm is loaded with less-lethal ammunition and fired
25 by a law enforcement officer in the performance of the officer's
26 official duties. A law enforcement officer knowingly placing
27 pressure on a person's throat, windpipe, or carotid artery, thereby
28 hindering or preventing that person's ability to breathe, or
29 interfering with the flow of blood from the person's heart to the
30 brain, constitutes deadly force.

31 A threat to cause death or serious bodily harm, by the production
32 of a weapon or otherwise, so long as the actor's purpose is limited
33 to creating an apprehension that he will use deadly force if
34 necessary, does not constitute deadly force.

35 c. "Dwelling" means any building or structure, though movable
36 or temporary, or a portion thereof, which is for the time being the
37 actor's home or place of lodging except that, as used in 2C:3-7, the
38 building or structure need not be the actor's own home or place of
39 lodging.

40 d. "Serious bodily harm" means bodily harm which creates a
41 substantial risk of death or which causes serious, permanent
42 disfigurement or protracted loss or impairment of the function of
43 any bodily member or organ or which results from aggravated
44 sexual assault or sexual assault.

45 e. "Bodily harm" means physical pain, or temporary
46 disfigurement, or impairment of physical condition.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 f. "Less-lethal ammunition" means ammunition approved by
2 the Attorney General which is designed to stun, temporarily
3 incapacitate or cause temporary discomfort to a person without
4 penetrating the person's body. The term shall also include
5 ammunition approved by the Attorney General which is designed to
6 gain access to a building or structure and is used for that purpose.
7 (cf: P.L.2005, c.250, s.1)

8
9 2. This act shall take effect on the first day of the second month
10 following the date of enactment.

11
12
13 STATEMENT

14
15 This bill amends N.J.S.2C:3-11 to establishes that the use of a
16 choke-hold by a law enforcement officer constitutes deadly force.

17 Under the bill, a law enforcement officer uses deadly force if he
18 knowingly places pressure on the throat, windpipe, or carotid artery
19 of another person, thereby hindering or preventing the ability to
20 breath, or interfering with the flow of blood from the heart to the
21 brain.

22 Under current law, use of deadly force by a law enforcement
23 officer is only justified if necessary to protect the officer or another
24 person from death or serious bodily injury, to arrest or prevent the
25 escape of a violent criminal, or to prevent the commission of a
26 violent crime. This bill provides that a law enforcement officer is
27 not justified in choking another person unless confronted with one
28 of these dangerous situations.