ASSEMBLY, No. 4468

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 30, 2020

Sponsored by:
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District 15 (Hunterdon and Mercer)

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SYNOPSIS

Concerns accomplice liability of law enforcement officers who fail to de-escalate and intervene when another officer commits offense.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 7/30/2020)

AN ACT concerning de-escalation and law enforcement officer complicity, supplementing Title 52 of the Revised Statutes, and amending N.J.S.2C:2-6.

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

1. (New section) a. The Department of Law and Public Safety shall develop or identify uniform law enforcement de-escalation and intervention training course materials. These materials shall be made available in the form of an online tutorial. The course materials also shall include instruction on how to use communication techniques to defuse potentially dangerous situations and provide law enforcement officers with strategies to calmly deal with people who are experiencing mental and emotional crises.

b. Every law enforcement officer shall receive four hours of in-service training on de-escalation and intervention required by this section every three years.

c. For the purposes of this section, "de-escalation" means the strategic slowing down of an incident in a manner that allows officers more time, distance, space, and tactical flexibility during dynamic situations on the street.

2. N.J.S.2C:2-6 is amended to read as follows:

2C:2-6. a. A person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable, or both.

b. A person is legally accountable for the conduct of another person when:

(1) Acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct;

(2) He is made accountable for the conduct of such other person by the code or by the law defining the offense;

(3) He is an accomplice of such other person in the commission of an offense; or

(4) He is engaged in a conspiracy with such other person.

c. A person is an accomplice of another person in the commission of an offense if:

(1) With the purpose of promoting or facilitating the commission of the offense; he

(a) Solicits such other person to commit it;

(b) Aids or agrees or attempts to aid such other person in planning or committing it; or

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 <u>thus</u> is new matter.

(c) Having a legal duty to prevent the commission of the offense, fails to make proper effort so to do; or

(2) His conduct is expressly declared by law to establish his complicity.

d. A person who is legally incapable of committing a particular offense himself may be guilty thereof if it is committed by another person for whose conduct he is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his incapacity.

e. Unless otherwise provided by the code or by the law defining the offense, a person is not an accomplice in an offense committed by another person if:

(1) He is a victim of that offense;

(2) The offense is so defined that his conduct is inevitably incident to its commission; or

(3) He terminates his complicity under circumstances manifesting a complete and voluntary renunciation as defined in section 2C:5-1 d. prior to the commission of the offense. Termination by renunciation is an affirmative defense which the defendant must prove by a preponderance of evidence.

f. An accomplice may be convicted on proof of the commission of the offense and of his complicity therein, though the person claimed to have committed the offense has not been prosecuted or convicted or has been convicted of a different offense or degree of offense or has an immunity to prosecution or conviction or has been acquitted.

g. For the purposes of this section, a law enforcement officer is deemed to have the duty to prevent the commission of an offense by another law enforcement officer by deescalating and intervening in a confrontation between the other law enforcement officer and a person. A law enforcement officer who fails to make the proper effort to de-escalate and intervene in the commission of an offense by another law enforcement officer against the person is an accomplice to that offense pursuant to subsection c. of this section.

(cf: N.J.S.2C:2-6)

3. This act shall take effect immediately.

STATEMENT

This bill requires de-escalation and intervention training for law enforcement officers in this State and establishes accomplice liability when law enforcement officers fail to de-escalate and intervene when another law enforcement officer commits an offense.

Current law provides that a person can be guilty of an offense committed by another person under certain circumstances, such as

by being an accomplice. A person is an accomplice when he or she has a legal duty to prevent the commission of a crime, but fails to make the proper effort to prevent the commission of that crime.

The bill specifically requires every law enforcement officer in this State to receive four hours of in-service training on de-escalation and intervention every three years.

Under the bill, a law enforcement officer is deemed to have the duty to prevent the commission of an offense by another law enforcement officer by deescalating and intervening in a confrontation between the other law enforcement officer and a citizen. The bill specifies that a law enforcement officer who fails to make the proper effort to de-escalate and intervene in the confrontation is an accomplice to the offense committed by the other officer.

This bill is intended to make criminally culpable those law enforcement officers at a scene of a confrontation between a law enforcement officer and a citizen who do not intervene to prevent the other officer from committing a crime against that citizen.