

Independent Investigations and Prosecutions

Responsible Party	Entity Responsible (for the Responsible Party)	SAFE-T Act Page Number	Effective Date
Illinois Attorney General's Office; Police Chief; Sheriff; Law Enforcement Agencies; and County and Municipal Government Officials	The Governor's Office; the Lieutenant Governor's Office; and the Illinois General Assembly	P. 44-46 (H.B. 3653)	July 1, 2021

Provision

(Subject to Change in Future Trailer Bills)

- Amends the Attorney General Act to authorize the State Attorney General to initiate a pattern or practice investigation of law enforcement agencies, law enforcement officers, and persons acting on behalf of law enforcement agencies when there is reasonable cause that the agency or officer engaged in constitutional violations.
- This can result in equitable and declaratory relief to eliminate the pattern or practice.
- Can also result in a civil penalty in an amount not exceeding \$25,000 per violation, or if the defendant has been adjudged to have committed one other civil rights violation related to this provision within 5 years of the occurrence of the violation that is the basis of the complaint, in an amount not exceeding \$50,000.
- There is a 5-year statute of limitations after the occurrence or the termination of an alleged violation, whichever occurs last.
- These cases can only be heard in Cook County or Sangamon County.
- **Statutory language:** No governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, shall engage in a pattern or practice of conduct by officers that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of Illinois.
- **Statutory language:** Venue for this civil action shall be Sangamon County or Cook County.
- **Statutory language:** In any civil action brought pursuant to subsection (c) of this Section, the Attorney General may obtain as a remedy equitable and declaratory relief (including any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such violation or ordering any action as may be appropriate). In addition, the Attorney General may request and the Court may impose a civil penalty to vindicate the public interest in an amount not exceeding \$25,000 per violation, or if the defendant has been adjudged to have committed one other civil rights violation under this Section within 5 years of the occurrence of the violation that is the basis of the complaint, in an amount not exceeding \$50,000.

Removal of Sworn Affidavit for Civilian Complaints

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Law Enforcement Agency; Illinois State Police; Director of Illinois State Police; Police Chief; and Sheriff	Illinois Attorney General's Office; the County State's Attorney's Office; County and Municipal Government Officials; Governor's Office; Lieutenant Governor's Office; and the Illinois General Assembly	P. 49, 94 (H.B 3653)	July 1, 2021

Provision

(Subject to Change in Future Trailer Bills)

- Amends the State Police Act and the Uniform Peace Officers' Disciplinary Act to remove the affidavit requirement for civilian complaints against Illinois State Police officers and sworn law enforcement officers.
- Allows for the filing of a complaint against a law enforcement officer without a sworn affidavit or other legal documentation. The elimination of the affidavit requirement also applies to any collective bargaining agreements entered after the effective date of July 1, 2021.
- **Statutory language:** It shall not be a requirement of a person filing a complaint against a State Police Officer to have a complaint supported by a sworn affidavit or any other legal documentation. This ban on an affidavit requirement shall apply to any collective bargaining agreements entered after the effective date of this provision.
- **Statutory language:** It shall not be a requirement for a person filing a complaint against a sworn peace officer to have the complaint supported by a sworn affidavit or any other legal documentation. This ban on an affidavit requirement shall apply to any collective bargaining agreements entered after the effective date of this provision.

Use of Force Standard: Arrest

Responsible Party	Entity Responsible (for the Responsible Party)	SAFE-T Act Page Number	Effective Date
Law Enforcement Agency; Illinois State Police; Director of Illinois State Police; Police Chief; and Sheriff	Illinois Attorney General's Office; the County State's Attorney's Office; the Governor's Office; the Lieutenant Governor's Office; and the Illinois General Assembly; and County and Municipal Government Officials	P. 282-286 (H.B. 3653) P. 91-96 (H.B. 3443)	July 1, 2021

Provision

(Subject to Change in Future Trailer Bills)

- Amends the Criminal Code of 2012 to require the totality of the circumstances to be included in the use of force standard.
- Describes the use of force related to resistance to and escape from arrest.
- Restricts when law enforcement officers can use deadly force against a person who is suspected of committing a property offense.
- Encourages law enforcement agencies to adopt and develop policies designed to protect individuals with physical, mental health, developmental, and intellectual disabilities.
- **Statutory language (Definition):** “Totality of the Circumstances” means all facts known to the peace officer at the time, or that would be known to a reasonable officer in the same situation, including the conduct of the officer and the subject leading up to the use of deadly force.
- **Statutory language (Definition):** “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm.
- **Statutory language (Definition):** “Imminent threat” means when based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and not matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
- **Statutory language:** A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to defend himself or another from bodily harm while making the arrest.
- **Statutory language:** However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes, based on the totality of the circumstances, both that: *(Continued)*

Use of Force Standard: Arrest (*Continued*)

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Provision (*Continued*)

(Subject to Change in Future Trailer Bills)

- **Statutory language:** (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another; and
- **Statutory language:** (2) The person to be arrested committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.
- **Statutory language:** Peace officers shall use deadly force only when reasonably necessary in defense of human life. In determining whether deadly force is reasonably necessary, officers shall evaluate each situation in light of totality of the circumstances of each case including but not limited to the proximity in time of the use of force to the commission of a forcible felony, and the reasonable feasibility of safely apprehending a subject at a later time, and shall use other available resources and techniques, if reasonably safe and feasible to a reasonable officer.
- **Statutory language:** A peace officer is not justified in using force likely to cause death or great bodily harm when there is no longer an imminent threat of great bodily harm to the officer or another.
- **Statutory language:** Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a peace officer and to warn that deadly force may be used, unless the officer has reasonable grounds to believe that the person is aware of those facts.
- **Statutory language:** A peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself if a reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury or great bodily harm to the peace officer or to another person.
- **Statutory language:** Law enforcement agencies are encouraged to adopt and develop policies designed to protect individuals with physical, mental health, developmental, or intellectual disabilities, or individuals who are significantly more likely to experience greater levels of physical force during police interactions, as these disabilities may affect the ability of a person to understand or comply with commands from peace officers.
- **Statutory language:** A peace officer shall not use deadly force against a person who is suspected of committing a property offense, unless that offense is terrorism or unless deadly force is otherwise authorized by law.

Use of Force: Escape

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Law Enforcement Agency; Illinois State Police; Director of Illinois State Police; Police Chief; and Sheriff	Illinois Attorney General's Office; the County State's Attorney's Office; the Governor's Office; the Lieutenant Governor's Office; the Illinois General Assembly; and County and Municipal Government Officials	P. 283 (H.B. 3653) P. 91-93 (H.B. 3443)	July 1, 2021

Provision

(Subject to Change in Future Trailer Bills)

- Establishes the standard for use of force and deadly use of force when an arrested or detained person attempts to escape.
- **Statutory language:** A peace officer or other person who has an arrested person in his custody is justified in the use of force, except deadly force, to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.
- **Statutory language:** A guard or other peace officer is justified in the use of force which he reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.
- **Statutory language:** Deadly force shall not be used to prevent escape under this Section unless, based on the totality of the circumstances, deadly force is necessary to prevent death or great bodily harm to himself or such other person.

Prohibited Uses of Force

Responsible Party	Entity Responsible (for the Responsible Party)	SAFE-T Act Page Number	Effective Date
Law Enforcement Agency; Law Enforcement Officers and Supervisors; Illinois State Police; Director of Illinois State Police; Police Chief; and Sheriff	Illinois Attorney General's Office; the County State's Attorney's Office; the Governor's Office; the Lieutenant Governor's Office; the Illinois General Assembly; and County and Municipal Government Officials	P. 286-288 (H.B. 3653) P. 96-100 (H.B. 3443)	July 1, 2021

Provision

(Subject to Change in Future Trailer Bills)

- Details prohibited uses of force by law enforcement officers, including when officers have a duty to intervene.
- Restricts the use of chokeholds by law enforcement officers.
- Restricts the use of restraints above the shoulders with risk of asphyxiation by law enforcement officers.
- **Statutory language:** A peace officer, or any other person acting on behalf of a peace officer, shall not:
 - (i) use force as punishment or retaliation;
 - (ii) discharge kinetic impact projectiles and all other non-or less-lethal projectiles in a manner that targets the head, neck, groin, anterior pelvis, or back;
 - (iii) discharge conducted electrical weapons in a manner that targets the head, chest, neck, groin, or anterior pelvis;
 - (iv) discharge firearms or kinetic impact projectiles indiscriminately into a crowd;
 - (v) use chemical agents or irritants for **crowd control**, including pepper spray and tear gas, prior to issuing an order to disperse in a sufficient manner to allow for the order to be heard and repeated if necessary, followed by sufficient time and space to allow compliance with the order unless providing such time and space would unduly place an officer or another person at risk of death or great bodily harm; or
 - (vi) use chemical agents or irritants, including pepper spray and tear gas, prior to issuing an order in a sufficient manner to ensure the order is heard, and repeated if necessary, to allow compliance with the order unless providing such time and space would unduly place an officer or another person at risk of death or great bodily harm. *(Continued)*

Prohibited Uses of Force (*Continued*)

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Provision (*Continued*)

(Subject to Change in Future Trailer Bills)

- **Statutory language (Definition):** "Chokehold" means applying any direct pressure to the throat, windpipe, or airway of another. "Chokehold" does not include any holding involving contact with the neck that is not intended to reduce the intake of air such as a headlock where the only pressure applied is to the head.
- **Statutory language (Definition):** "Restraint above the shoulders with risk of positional asphyxiation" means a use of a technique used to restrain a person above the shoulders, including the neck or head, in a position which interferes with the person's ability to breathe after the person no longer poses a threat to the officer or any other person.
- **Statutory language:** A peace officer, or any other person acting under the color of law, shall not use a chokehold or restraint above the shoulders with risk of asphyxiation in the performance of his or her duties, unless deadly force is justified under Article 7 of this Code.
- **Statutory language:** A peace officer, or any other person acting under the color of law, shall not use a chokehold or restraint above the shoulders with risk of asphyxiation, or any lesser contact with the throat or neck are of another, in order to prevent the destruction of evidence by ingestion.
- **Statutory language:** A peace officer, or any other person acting under the color of law who has an opportunity to intervene, **shall have an affirmative duty to intervene** to prevent or stop another peace officer in his or her presence from using any unauthorized force or **force that exceeds the degree of force permitted**, if any, without regard for chain of command.