
Wisconsin Legislative Council

ACT MEMO



Prepared by: Amber Otis, Senior Staff Attorney

August 12, 2021

2021 Wisconsin Act 75
[2021 Senate Bill 120]

**Use of Force by Law
Enforcement Officers**

2021 Wisconsin Act 75 generally creates a use-of-force standard for law enforcement officers and related duties to report and intervene in certain situations in which a law enforcement officer observes another officer failing to comply with the act's use-of-force standard.

SANCTITY OF HUMAN LIFE

The act sets forth certain principles regarding the sanctity of human life. Specifically, the act requires that, in serving the community, a law enforcement officer must make every effort to preserve and protect human life and the safety of all persons, and must also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

USE-OF-FORCE STANDARD

The act requires that a law enforcement officer act in good faith to achieve a legitimate law enforcement objective when using force. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including:

- The severity of the alleged crime at issue.
- Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
- Whether the suspect is actively resisting or attempting to evade arrest by flight.

With respect to deadly force, a law enforcement officer may use such force only as a last resort when the officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer must give a verbal warning before using deadly force.

DUTY TO REPORT

The act creates a duty to report, in that it requires a law enforcement officer who, in the course of his or her law enforcement duties, witnesses another officer use force that does not comply with the use-of-force standard above in the course of that officer's official duties to report the noncompliant use of force as soon as practicable. If an officer intentionally fails to report a noncompliant use of force, as required under the act, the officer may be subject to a misdemeanor penalty consisting of a fine no greater than \$1,000, imprisonment for not more than six months, or both.

DUTY TO INTERVENE

Relatedly, the act also creates a duty to intervene, by requiring an officer to, without regard for chain of command, intervene to prevent or stop another officer from using force that does not comply with the use-of-force standard above in the course of that officer's official duties. The act imposes this duty to intervene only if both of the following conditions apply:

- The law enforcement officer observes use of force that does not comply with the use-of-force standard above.
- The circumstances are such that it is safe for the law enforcement officer to intervene.

The act further requires a law enforcement officer who intervenes to report the intervention to his or her immediate supervisor as soon as practicable after the force's occurrence, and provides the same misdemeanor penalty for intentionally failing to intervene to prevent or stop a noncompliant use of force or intentionally failing to report an intervention, as required.

WHISTLEBLOWER PROTECTIONS

The act generally provides protections from adverse employment actions to officers who report, or intervene to prevent or stop, any use of force that does not comply with the act's use-of-force standard, or who engage in certain acts in proceedings regarding such reports or interventions.

Specifically, under the act, an officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer did any of the following:

- Reported, or is believed to have reported, any noncompliant use of force as required under the act.
- Intervened to prevent or stop a noncompliant use of force as required under the act.
- Initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force.
- Provided any information, or is believed to have provided any information, about noncompliant use of force as required under the act.

Effective date: January 1, 2022

AO:jal