

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4398 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Ajay Pittman

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 4398

By: Pittman

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to use of force and pursuits;
amending 21 O.S. 2021, Section 732, which relates to
the use of deadly force; prohibiting officers from
shooting at moving motor vehicles under certain
circumstances; requiring the use of de-escalation
techniques; establishing standard of force to be used
for detaining or arresting a suspect; directing
state, county and local law enforcement agencies to
adopt written policies and procedures on pursuing
fleeing suspects; requiring policies and procedures
to include specific requirements for motor vehicle
pursuits, fleeing felons and misdemeanants; providing
restrictions when engaging in vehicular pursuits;
providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2021, Section 732, is
amended to read as follows:

Section 732. A. A peace officer, correctional officer, or any
person acting by his command in his aid and assistance, is justified
in using deadly force when:

1 1. The officer is acting in obedience to and in accordance with
2 any judgment of a competent court in executing a penalty of death;
3 or

4 2. In effecting an arrest or preventing an escape from custody
5 following arrest and the officer reasonably believes both that:

6 a. such force is necessary to prevent the arrest from
7 being defeated by resistance or escape, and

8 b. there is probable cause to believe that the person to
9 be arrested has committed a crime involving the
10 infliction or threatened infliction of serious bodily
11 harm, or the person to be arrested is attempting to
12 escape by use of a deadly weapon, or otherwise
13 indicates that he will endanger human life or inflict
14 great bodily harm unless arrested without delay;
15 provided, however, the officer shall shoot his or her
16 weapon at a moving motor vehicle in a manner intended
17 to cause bodily injury to the occupants of the motor
18 vehicle and may only shoot his or her weapon to safely
19 disable or slow down the motor vehicle; or

20 3. The officer is in the performance of his legal duty or the
21 execution of legal process and reasonably believes the use of the
22 force is necessary to protect himself or others from the infliction
23 of serious bodily harm; or

1 4. The force is necessary to prevent an escape from a penal
2 institution or other place of confinement used primarily for the
3 custody of persons convicted of felonies or from custody while in
4 transit thereto or therefrom unless the officer has reason to know:

5 a. the person escaping is not a person who has committed
6 a felony involving violence, and

7 b. the person escaping is not likely to endanger human
8 life or to inflict serious bodily harm if not
9 apprehended.

10 B. De-escalation techniques shall be used before resorting to
11 deadly force.

12 C. For purposes of this section, the standard of force shall be
13 measured in an objective context, not a subjective one.

14 D. The level of force that officers are permitted to use to
15 detain or arrest a suspect must be proportional to:

16 1. The level of force used by the suspect;

17 2. Whether the suspect is known to be armed and not merely
18 suspected;

19 3. The severity of the criminal activity involved;

20 4. The actual level of danger that the suspect poses to the
21 officers and the public at the time of flight and takedown; and

22 5. The necessary force to effectuate the arrest safely.
23
24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 34.6 of Title 22, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Each state, county, and local law enforcement agency shall
5 adopt written policies and procedures concerning the pursuit of
6 fleeing suspects. Each law enforcement agency may create its own
7 such policies or adopt an existing model. All pursuit policies and
8 procedures created or adopted by a law enforcement agency shall
9 address situations in which pursuits cross over into other
10 jurisdictions. The policies and procedures shall also include the
11 following:

12 1. As it relates to motor vehicle pursuits:

- 13 a. prohibiting high-speed pursuits in densely populated
- 14 areas,
- 15 b. prohibiting shooting at moving vehicles, and
- 16 c. other standards consistent with the public policy that
- 17 protecting innocent persons is more important than
- 18 punishing the guilty;

19 2. As it relates to the pursuit of alleged felons, regardless
20 of the manner of pursuit:

- 21 a. requiring that law enforcement officers pursue a
- 22 person only when there is a reasonable certainty that
- 23 apprehension of the person will prevent further
- 24 physical harm to other individuals or the officer,

1 b. requiring that a pursuit end if significant property
2 damage or harm to individuals seems probable, and

3 c. prohibiting shooting at a fleeing individual who
4 presents no immediate harm to an officer or any other
5 person; and

6 3. Alleged misdemeanants may only be pursued if the pursuing
7 officer is reasonably certain to apprehend the person without damage
8 to public property or harm to innocent persons.

9 Law enforcement agencies which do not comply with the
10 requirements of this section shall be subject to the withholding of
11 state funding or state-administered federal funding.

12 B. No state, county, or local law enforcement agency shall
13 authorize the engagement of a vehicular pursuit unless probable
14 cause exists to believe that the person being pursued committed, or
15 is committing:

16 1. Murder;

17 2. Aggravated assault and battery;

18 3. Kidnapping, false imprisonment, or a related offense;

19 4. Rape;

20 5. Armed robbery; or

21 6. Any other offense that creates an immediate threat of death
22 or serious bodily injury to another person or a substantial threat
23 to the safety of another person.

SECTION 3. This act shall become effective November 1, 2022.

58-2-10284 GRS 02/16/22