

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1002.01 Michael Dohr x4347

HOUSE BILL 16-1264

HOUSE SPONSORSHIP

Melton, Esgar, Salazar, Williams

SENATE SPONSORSHIP

Johnston,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING THE USE OF A CHOKEHOLD BY A PEACE**
102 **OFFICER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits a peace officer from intentionally using a chokehold against another person. The bill makes a violation a class 1 misdemeanor. The bill makes an exception if the officer believes his or her life is in danger or that he or she or another person is in imminent danger of death or serious bodily injury.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 17, 2016

HOUSE
Amended 2nd Reading
March 16, 2016

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-707, amend (1)
3 introductory portion, (3), and (4); and add (2.5) as follows:

4 **18-1-707. Use of physical force in making an arrest or in**
5 **preventing an escape - definitions.** (1) Except as provided in subsection
6 (2) SUBSECTIONS (2) AND (2.5) of this section, a peace officer is justified
7 in using reasonable and appropriate physical force upon another person
8 when and to the extent that he reasonably believes it necessary:

9 (2.5) (a) A PEACE OFFICER IS JUSTIFIED IN USING A CHOKEHOLD
10 UPON ANOTHER PERSON FOR THE PURPOSES SPECIFIED IN SUBSECTION (1)
11 OF THIS SECTION ONLY WHEN HE OR SHE REASONABLY BELIEVES THAT IT
12 IS NECESSARY:

13 (I) TO DEFEND HIMSELF OR HERSELF OR A THIRD PERSON FROM
14 WHAT HE OR SHE REASONABLY BELIEVES TO BE THE USE OR IMMINENT USE
15 OF DEADLY PHYSICAL FORCE OR INFLECTION OF ___ BODILY INJURY; OR

16 (II) TO EFFECT AN ARREST, OR TO PREVENT THE ESCAPE FROM
17 CUSTODY, OF A PERSON WHOM HE OR SHE REASONABLY BELIEVES:

18 (A) HAS COMMITTED OR ATTEMPTED TO COMMIT A FELONY
19 INVOLVING OR THREATENING THE USE OF A DEADLY WEAPON; OR

20 (B) IS ATTEMPTING TO ESCAPE BY THE USE OF PHYSICAL FORCE; OR

21 (C) INDICATES, EXCEPT THROUGH A MOTOR VEHICLE, THAT HE OR
22 SHE IS LIKELY TO ENDANGER HUMAN LIFE OR TO INFLICT SERIOUS BODILY
23 INJURY TO ANOTHER UNLESS HE OR SHE IS APPREHENDED WITHOUT DELAY.

24 (b) FOR THE PURPOSES OF THIS SUBSECTION, "CHOKEHOLD" MEANS
25 A METHOD BY WHICH A PERSON HOLDS ANOTHER PERSON BY PUTTING HIS
26 OR HER ARM AROUND THE OTHER PERSON'S NECK WITH SUFFICIENT

1 PRESSURE TO MAKE BREATHING DIFFICULT OR IMPOSSIBLE AND INCLUDES,
2 BUT IS NOT LIMITED TO, ANY PRESSURE TO THE THROAT OR WINDPIPE,
3 WHICH MAY PREVENT OR HINDER BREATHING OR REDUCE INTAKE OF AIR.

4 (3) Nothing in subsection (2) (b) OR SUBSECTION (2.5) of this
5 section shall be deemed to constitute justification for reckless or
6 criminally negligent conduct by a peace officer amounting to an offense
7 against or with respect to innocent persons whom he is not seeking to
8 arrest or retain in custody.

9 (4) For purposes of this section, a reasonable belief that a person
10 has committed an offense means a reasonable belief in facts or
11 circumstances which if true would in law constitute an offense. If the
12 believed facts or circumstances would not in law constitute an offense, an
13 erroneous though not unreasonable belief that the law is otherwise does
14 not render justifiable the use of force to make an arrest or to prevent an
15 escape from custody. A peace officer who is effecting an arrest pursuant
16 to a warrant is justified in using the physical force prescribed in
17 subsections (1), and (2), AND (2.5) of this section unless the warrant is
18 invalid and is known by the officer to be invalid.

19 **SECTION 2. Effective date - applicability.** This act takes effect
20 July 1, 2016, and applies to offenses committed on or after said date.

21 **SECTION 3. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.