

AMENDED IN SENATE AUGUST 24, 2020

AMENDED IN SENATE JULY 9, 2020

AMENDED IN SENATE JUNE 18, 2020

AMENDED IN ASSEMBLY APRIL 29, 2019

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1196

**Introduced by Assembly Members Gipson, Carrillo, Chiu, Grayson,
Santiago, and Weber**

(Principal coauthor: Assembly Member Rendon)

(Principal coauthors: Senators Durazo and Wiener)

(Coauthors: Assembly Members *Bauer-Kahan, Berman, Bloom, Bonta, Burke, Cervantes, Eggman, Gabriel, Eduardo Garcia, Gloria, Gonzalez, Holden, Jones-Sawyer, Kalra, Levine, Low, McCarty, Nazarian, Reyes, Robert Rivas, Salas, Ting, and Waldron*)

(Coauthors: Senators Allen, *Archuleta, Beall*, Caballero, Chang, Dodd, Lena Gonzalez, *McGuire*, Mitchell, *Skinner*, Stern, and Umberg)

February 21, 2019

An act to add Section 7286.5 to the Government Code, relating to ~~peace officers, and declaring the urgency thereof, to take effect immediately.~~ *officers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1196, as amended, Gipson. Peace officers: use of force.

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified. Under existing law, an arrest is made by the actual restraint of the person or by submission to the custody of the arresting officer. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Existing law requires law enforcement agencies to maintain a policy on the use of force, as specified. Existing law requires the Commission on Peace Officer Standards and Training to implement courses of instruction for the regular and periodic training of law enforcement officers in the use of force.

This bill would prohibit a law enforcement agency from authorizing the use of a carotid restraint or a choke hold, ~~as defined, and techniques or transport methods that involve a substantial risk of positional asphyxia, as defined.~~ *defined.*

By requiring local agencies to amend use of force policies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7286.5 is added to the Government Code,
- 2 to read:
- 3 7286.5. (a) A law enforcement agency shall not authorize the
- 4 use of a carotid restraint or choke hold by any peace officer
- 5 employed by that agency.
- 6 ~~(b) A law enforcement agency shall not authorize techniques~~
- 7 ~~or transport methods that involve a substantial risk of positional~~
- 8 ~~asphyxia.~~
- 9 (c)

1 (b) As used in this section, the following terms are defined as
2 follows:

3 (1) “Carotid restraint” means a vascular neck restraint or any
4 similar restraint, hold, or other defensive tactic in which pressure
5 is applied to the sides of a person’s neck that involves a substantial
6 risk of restricting blood flow and may render the person
7 unconscious in order to subdue or control the person.

8 (2) “Choke hold” means any defensive tactic or force option in
9 which direct pressure is applied to a person’s trachea or windpipe.

10 (3) “Law enforcement agency” means any agency, department,
11 or other entity of the state or any political subdivision thereof, that
12 employs any peace officer described in Chapter 4.5 (commencing
13 with Section 830) of Title 3 of Part 2 of the Penal Code.

14 ~~(4) “Positional asphyxia” means situating a person in a manner~~
15 ~~that compresses an individual’s airway and reduces the likelihood~~
16 ~~that an individual will be able to breathe. This includes but is not~~
17 ~~limited to techniques or positioning that restrain a subject’s hands~~
18 ~~and legs together, leave a subject in control restraints lying on their~~
19 ~~back or stomach, put weight on the subject’s back or neck for a~~
20 ~~prolonged period, or keep a subject waiting for transportation in~~
21 ~~a restrained position, as described in this paragraph, without proper~~
22 ~~monitoring for signs of asphyxia.~~

23 SEC. 2. If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.

28 ~~SEC. 3. This act is an urgency statute necessary for the~~
29 ~~immediate preservation of the public peace, health, or safety within~~
30 ~~the meaning of Article IV of the California Constitution and shall~~
31 ~~go into immediate effect. The facts constituting the necessity are:~~

32 ~~In order to promote public safety by ensuring the abolition of~~
33 ~~law enforcement tactics that may result in unintentional deaths, it~~
34 ~~is necessary that this act take effect immediately.~~