An Act

ENROLLED HOUSE
BILL NO. 2537

By: George, Humphrey and McDugle of the House

and

Gollihare of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2021, Sections 34.1 and 34.2, which relate to the use of excessive force by peace officers; clarifying standard by which excessive force is measured; defining term; modifying elements of certain defined term; deleting requirement to adopt excessive force policies or guidelines; directing law enforcement entities to adopt policies or guidelines concerning the use of force; and providing an effective date.

SUBJECT: Criminal procedure

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 34.1, is amended to read as follows:

Section 34.1 A. Any peace officer, as defined in Section 648 of Title 21 of the Oklahoma Statutes, who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen, if excessive force is established as an element of any alleged violation under the criminal laws of this state. As used in this section and Section 34.2 of this title, "law enforcement duties" means duties carried out while acting as a peace officer pursuant to Section 99a of Title 21 of the Oklahoma Statutes.

B. As used in this ~~act~~ section and Section 34.2 of this title, "excessive force" means physical force which exceeds the degree of physical force reasonably permitted by law ~~or the policies and~~

~~guidelines of the law enforcement entity~~. The use of excessive force shall be presumed when a peace officer continues to apply physical force in excess of the force permitted by law ~~or said policies and guidelines~~ to a person who has been rendered incapable of resisting arrest.

~~C. Each law enforcement entity which employs any peace officer shall adopt policies or guidelines concerning the use of force by peace officers which shall be complied with by peace officers in carrying out the duties of such officers within the jurisdiction of the law enforcement entity.~~

SECTION 2. AMENDATORY 22 O.S. 2021, Section 34.2, is amended to read as follows:

Section 34.2 A. Each law enforcement entity which employs any peace officer shall adopt policies or guidelines concerning the use of force by peace officers employed by the entity.

B. Any peace officer, except a newly employed officer during such officer's probationary period, who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force which exceeds the degree of physical force permitted by law or by the policies and guidelines of the law enforcement entity, shall report such use of excessive force to such officer's immediate supervisor.

~~B.~~ C. At a minimum, the report required by this section shall include:

1. The date, time, and place of the occurrence;

2. The identity, if known, and description of the participants;

3. A description of the events and the force used.

~~C.~~ D. A copy of an arrest report or other similar report required as a part of a peace officer's duties can be substituted for the report required by this section, as long as it includes the information specified in subsection ~~B~~ C of this section. The report

shall be made in writing within ten (10) days of the occurrence of the use of such force.

~~D.~~ E. Any peace officer who fails to report such use of excessive force in the manner prescribed in this section, or who knowingly makes a materially false statement which the officer does not believe to be true in any report made pursuant to this section, upon conviction, shall be guilty of a misdemeanor.

SECTION 3. This act shall become effective November 1, 2023.

Passed the House of Representatives the 20th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 18th day of April, 2023.

Brent Howard
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th
day of April, 20 23, at 3:32 o'clock p. M.
By: Jamie Curry

Approved by the Governor of the State of Oklahoma this 21st
day of April, 20 23, at 2:56 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st
day of April, 20 23, at 4:16 o'clock P. M.
By: Brian Bingman