

**INVESTIGATION PROTOCOLS FOR PEACE OFFICER USE
OF FORCE**

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill modifies a provision relating to investigations of the use of force by a law enforcement officer.

Highlighted Provisions:

This bill:

► modifies and enacts definitions applicable to a provision relating to investigations of officer-involved critical incidents.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-408, as enacted by Laws of Utah 2015, Chapter 178

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-2-408** is amended to read:

76-2-408. Peace officer use of force -- Investigations.

(1) As used in this section:



28 (a) "Dangerous weapon" [is] means a firearm or an object that in the manner of its use
29 or intended use is capable of causing death or serious bodily injury to a person.

30 (b) "Deadly force" means a force that creates or is likely to create, or that the person
31 using the force intends to create, a substantial likelihood of death or serious bodily injury to a
32 person.

33 (c) "In custody" means in the legal custody of a state prison, county jail, or other
34 correctional facility, including custody that results from:

- 35 (i) a detention to secure attendance as a witness in a criminal case;
- 36 (ii) ~~H→~~ [the] an arrest for or ~~←H~~ charging with a crime and committing for trial;
- 37 (iii) committing for contempt, upon civil process, or by other authority of law; or
- 38 (iv) sentencing to imprisonment on conviction of a crime.

39 ~~(b)~~ (d) "Investigating agency" [is] means a law enforcement agency, the county or
40 district attorney's office, or an interagency task force composed of officers from multiple law
41 enforcement agencies.

42 ~~(c)~~ (e) "Officer" [~~is a~~] means the same as the term "law enforcement officer" as that
43 term is defined in Section 53-13-103.

44 ~~(d)~~ (f) "Officer-involved critical incident" [is] means any of the following:

- 45 (i) an officer's use of deadly force ~~H→~~ [against a person] ~~←H~~ ;
- 46 ~~(i)~~ (ii) [the] an officer's use of a dangerous weapon [~~by an officer~~] against a person
47 that causes injury to any person;

48 ~~(ii)~~ (iii) [~~a fatal~~] death or serious bodily injury to any person [~~except~~], other than the
49 officer, resulting from [~~the~~] an officer's:

- 50 (A) use of a motor vehicle [~~by an officer;~~] while the officer is on duty; or
- 51 (B) use of a government vehicle while the officer is off duty;

52 ~~(iii)~~ (iv) the death of a person who is in [~~law enforcement~~] custody, but [~~not including~~
53 ~~deaths that are~~] excluding a death that is the result of disease, natural causes, or conditions that
54 have been medically diagnosed prior to the person's death; or

55 ~~(iv)~~ (v) [~~a fatal~~] the death of or serious bodily injury to a person not in custody, other
56 than an officer, resulting from [~~the efforts of an officer attempting~~] an officer's attempt to
57 prevent a person's escape from custody, to make an arrest, or otherwise to gain physical control
58 of a person.

59 (g) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

60 (2) When an officer-involved critical incident occurs:

61 (a) upon receiving notice of the officer-involved critical incident, the law enforcement
62 agency having jurisdiction where the incident occurred shall, as soon as practical, notify the
63 county or district attorney having jurisdiction where the incident occurred; and

64 (b) the chief executive of the law enforcement agency and the county or district
65 attorney having jurisdiction where the incident occurred shall:

66 (i) jointly designate an investigating agency for the officer-involved critical incident;

67 and

68 (ii) designate which agency is the lead investigative agency if the officer-involved
69 critical incident involves multiple investigations.

70 (3) The investigating agency under Subsection (2) may not be the law enforcement
71 agency employing the officer who is alleged to have caused or contributed to the
72 officer-involved critical incident.

73 (4) This section does not preclude the law enforcement agency employing an officer
74 alleged to have caused or contributed to the officer-involved critical incident from conducting
75 an internal administrative investigation.

76 (5) Each law enforcement agency that is part of or administered by the state or any of
77 its political subdivisions shall, by December 31, 2015, adopt and post on its publicly accessible
78 website:

79 (a) the policies and procedures the agency has adopted to select the investigating
80 agency if an officer-involved critical incident occurs in its jurisdiction and one of its officers is
81 alleged to have caused or contributed to the officer-involved incident; and

82 (b) the protocols the agency has adopted to ensure that any investigation of
83 officer-involved incidents occurring in its jurisdiction are conducted professionally,
84 thoroughly, and impartially.