

Comparison of House, Senate, and Proposed Conference Committee Version of E2SHB 1310

Brief Summary:

- Establishes civil standards for the use of force by a peace officer.
- Requires the attorney general to develop model policies on law enforcement's use of force and de-escalation tactics and requires individual law enforcement agencies to adopt policies consistent with the model policies.

Topic	House Version (E2SHB 1310)	Senate Version (S-2618.E) (As Passed Senate on 4/10/2021)	Proposed Conference Striking Amendment (S-3045.2)
Intent Section 1		Adds intent language (1) When practicable, peace officers must use the least amount of force necessary; (2) The fundamental duty of law enforcement is to preserve and protect all human life.	Senate language retained.
Definition of less-lethal alternatives. Section 2(2)	Includes tasers, pepper spray, batons, and beanbag rounds.	Adds <u>verbal warning and de-escalation tactics</u> to definition.	Senate language retained.
Physical force may be used to protect against an imminent threat of bodily injury to: Section 3(1)(a)	The peace officer or another person.	The peace officer, another person, <u>or the person against whom force is being used.</u>	Senate language retained.
"Imminent threat," "necessary," and "totality of the circumstances" defined. Section 3(1)(b)	Terms apply to the use of deadly force.	Same as House version, but technical changes made for clarity: (1) definitions moved to subsection addressing deadly force; (2) definition updated to "imminent threat of serious physical injury or death"	Senate language retained.

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De-escalation tactics include leaving the area if there is . . . Section 3(2)(a)	no threat of imminent harm or no crime is being committed.	no threat of imminent harm, <u>no crime has been committed, is about to be committed</u> , or no crime is being committed.	Senate language retained, but corrected for grammar and "or" changed to "and." . . . no threat of imminent harm <u>and</u> no crime has been committed, is being committed, or is about to be committed; Page 3, line 4 and 5.
When using physical force an officer must . . . Section 3(2)(b)	use only the minimal degree of physical force necessary	use the least amount of physical force necessary and use the least amount of force possible to effect a lawful purpose	Senate language retained.
Use of force tactics prohibited by departmental policy or law Section 3(3)	A peace officer may not use any force tactics prohibited by departmental policy or law except to protect the officer's life or the life of another person.	A peace officer may not use any force tactics prohibited by departmental policy or law except to protect the officer's life or the life of another person <u>from an imminent threat</u> .	Senate language retained.
Political subdivisions Section 3(4)	Nothing in law prevents a law enforcement agency from adopting greater restrictions on the use of force	Nothing in law prevents a law enforcement agency <u>or political subdivision</u> from adopting greater restrictions on the use of force	Senate language retained.

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Use of tear gas Section 7 & 10	Not addressed	Outlines parameters for the use of tear gas, consistent with HB 1054 with the exception of authorizing the use of tear gas to alleviate a present risk of serious harm posed by a riot instead of only a riot inside a correctional, detention, or jail facility.	Provisions are removed consistent with the House version.