A BILL FOR

1 An Act relating to peace officers, including the certification, training, and prosecution of peace officers and the use of chokeholds by peace officers, and including effective date and retroactive applicability provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
DIVISION I

PROSECUTION BY ATTORNEY GENERAL

Section 1. NEW SECTION. 13.12 Prosecution of criminal offenses committed by law enforcement officers.

The attorney general may prosecute a criminal offense committed by a law enforcement officer, as defined in section 80B.3, arising from the actions of the officer resulting in the death of another, regardless of whether the county attorney requests the assistance of the attorney general or decides to independently prosecute the criminal offense committed by the officer. If the attorney general determines that criminal charges are not appropriate, the attorney general may refer the matter to the Iowa law enforcement academy council to recommend revocation or suspension of the officer's certification if the attorney general determines that the officer committed misconduct that would be grounds for revocation or suspension of a certification under chapter 80B or 80D, or rules adopted pursuant to those chapters.

DIVISION II

USE OF CHOKEHOLDS BY PEACE OFFICERS

Sec. 2. Section 804.8, Code 2020, is amended to read as follows:

804.8 Use of force by peace officer making an arrest.

1. A peace officer, while making a lawful arrest, is justified in the use of any force which the peace officer reasonably believes to be necessary to effect the arrest or to defend any person from bodily harm while making the arrest. However, the use of deadly force or a chokehold is only justified when a person cannot be captured any other way and either of the following apply:

a. The person has used or threatened to use deadly force in committing a felony.

b. The peace officer reasonably believes the person would use deadly force against any person unless immediately apprehended.
2. A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which the peace officer would be justified in using if the warrant were valid, unless the peace officer knows that the warrant is invalid.

3. For purposes of this section, "chokehold" means the intentional and prolonged application of force to the throat or windpipe that prevents or hinders breathing or reduces the intake of air.

DIVISION III

CERTIFICATIONS — OTHER STATES — REVOCATION OR SUSPENSION

Sec. 3. Section 80B.3, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 4. "Reserve peace officer" means the same as defined in section 80D.1A.

Sec. 4. NEW SECTION. 80B.11F Previous certification in other states.

1. For purposes of this section, "serious misconduct" means improper or illegal actions taken by a law enforcement officer in connection with the officer’s official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

2. The council may adopt rules pursuant to chapter 17A to establish a process for the certification through examination of law enforcement officers who have been certified in another state.

3. Before beginning employment with an employing agency in this state, a law enforcement officer who has been certified in another state must submit a preliminary application for certification through examination to the council. The application shall be under oath and shall require the applicant to provide any information determined to be necessary by the council, including but not limited to an attestation by the applicant to any of the following:

a. Whether the applicant’s certification as a law enforcement officer in another state is valid.
enforcement officer has been revoked or suspended in another state.

b. Whether the applicant has pled guilty to or been convicted of a felony.
c. Whether the applicant has been discharged for serious misconduct from employment as a law enforcement officer.
d. Whether the applicant left, voluntarily quit, or has been laid off when the applicant knew or believed that disciplinary investigation or action was imminent or pending which could have resulted in the applicant being discharged for serious misconduct.

4. The council shall deny a preliminary application upon a finding that the applicant has done any of the following:
a. Been revoked as a certified law enforcement officer in another state.
b. Pled guilty to or been convicted of a felony.
c. Been discharged for serious misconduct from employment as a law enforcement officer.
d. Left, voluntarily quit, or been laid off when disciplinary investigation or action was imminent or pending which could have resulted in the applicant being discharged for serious misconduct, if the council determines that the applicant engaged in serious misconduct.

5. If the council denies a preliminary application for certification through examination, the applicant shall be prohibited from continued employment as a law enforcement officer in this state.

Sec. 5. Section 80B.13, subsections 8 and 9, Code 2020, are amended to read as follows:

8. Revoke or suspend a law enforcement officer's or reserve peace officer's certification for the conviction of a felony or revoke or suspend a law enforcement officer's certification for a violation of rules adopted pursuant to section 80B.11, subsection 1, paragraph "h" pursuant to section 80B.13A. In addition the council may consider revocation or
suspension proceedings when an employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. If a law enforcement officer resigns, the employing agency shall notify the council that an officer has resigned and state the reason for the resignation if a substantial likelihood exists that the reason would result in the revocation or suspension of an officer’s certification for a violation of the rules.

b. A recommendation by an employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final. “Final”, as used in this section, means that all appeals through a grievance procedure available to the officer or civil service have been exhausted. The written recommendations shall be unavailable for inspection by anyone except personnel of the employing agency, the council and the affected law enforcement officer, or as ordered by a reviewing court.

c. The council shall establish a process for the protest and appeal of a revocation or suspension made pursuant to this subsection.

9. In accordance with chapter 17A, conduct investigations, hold hearings, appoint hearing examiners administrative law judges, administer oaths, and issue subpoenas enforceable in district court on matters relating to the revocation or suspension of a law enforcement officer’s certification.

Sec. 6. NEW SECTION. 80B.13A Revocation or suspension of certification.

1. For purposes of this section:

a. “Final” means that all appeals through a grievance procedure available to the officer or civil service have been exhausted.

b. “Serious misconduct” means improper or illegal actions taken by a law enforcement officer or reserve peace officer in
connection with the officer's official duties including but not
limited to a conviction for a felony, fabrication of evidence,
repeated use of excessive force, acceptance of a bribe, or the
commission of fraud.

2. The council shall revoke the certification of a law
enforcement officer or reserve peace officer upon a finding
that the law enforcement officer or reserve peace officer has
done any of the following:

a. Pled guilty to or been convicted of a felony.
b. Been discharged for serious misconduct from employment
as a law enforcement officer or from appointment as a reserve
peace officer, as applicable.
c. Left, voluntarily quit, or been laid off when
disciplinary investigation or action was imminent or pending
which could have resulted in the law enforcement officer being
discharged or the reserve peace officer being removed for
serious misconduct, if the council determines that the officer
engaged in serious misconduct.

3. The council may revoke or suspend the certification of a
law enforcement officer or reserve peace officer due to any of
the following:

a. For any other grounds authorized by rules adopted
pursuant to section 80B.11, subsection 1, paragraph "h", or
section 80D.4A.
b. When an employing agency recommends to the council that
revocation or suspension would be appropriate with regard to a
current or former employee. A recommendation by an employing
agency must be in writing and set forth the reasons why the
action is being recommended, the findings of the employing
agency concerning the matter, the action taken by the employing
agency, and that the action by the agency is final.
c. When the attorney general recommends to the council
that revocation or suspension would be appropriate pursuant to
section 13.12.

4. An employing agency shall notify the council within ten
days of any termination of employment of a law enforcement officer or appointment as a reserve peace officer. The notification must state whether the law enforcement officer or reserve peace officer was discharged or removed for serious misconduct or whether the officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer being discharged or removed for serious misconduct. Upon request by the council, the employing agency shall provide any additional information or documentation about the officer including confidential records or information under section 22.7 or other applicable law to the council.

5. Any recommendation, notification, or other record or information provided by an employing agency or the attorney general pursuant to this section shall be confidential except as required by rule or order of the council, an administrative law judge, or a reviewing court. Any employing agency or person who, acting reasonably and in good faith, files a notification or recommendation, releases information, or otherwise cooperates with an investigation under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action.

6. The council shall adopt rules pursuant to chapter 17A establishing a process to challenge and appeal a revocation or suspension made pursuant to this section.

Section 80D.4A, Code 2020, is amended to read as follows:

80D.4A Training and certification requirements — revocation or suspension of certification.

The director of the academy, subject to the approval of the council, shall promulgate rules in accordance with the provisions of this chapter and chapter 17A, giving due consideration to varying factors and special requirements of law enforcement agencies relative to the standardized training and state certification of reserve peace officers. The rules
shall provide for grounds for revocation or suspension of a reserve peace officer's certification.

DIVISION IV

LAW ENFORCEMENT TRAINING — DE-ESCALATION TECHNIQUES AND PREVENTION OF BIAS

Sec. 8. NEW SECTION. 80B.11G Annual training — de-escalation techniques and prevention of bias.

1. A law enforcement agency shall provide annual training to every law enforcement officer on issues relating to de-escalation techniques and the prevention of bias. Every law enforcement officer in the state must participate in annual training in accordance with this section.

2. The academy shall develop and disseminate training guidelines for all law enforcement officers consistent with best practice guidelines.

3. Every law enforcement officer shall adhere to the training guidelines developed by the academy pursuant to this section. The training guidelines shall include all of the following:

   a. An emphasis on law enforcement officer understanding and respect for diverse communities and the importance of effective, noncombative methods of carrying out law enforcement activities in a diverse community.

   b. Instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.

   c. An examination of the patterns, practices, and protocols that cause biased law enforcement actions, and the tools to prevent such actions.

   d. An examination and identification of key indices and perspectives that make up differences among residents in a local community.

   e. Instruction on implicit bias and consideration of the negative impact of bias, whether intentional or implicit, on effective law enforcement, including examination of how
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The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

This bill relates to peace officers, including the
certification, training, and prosecution of peace officers and
the use of chokeholds by peace officers.
PROSECUTION BY ATTORNEY GENERAL. The bill authorizes the attorney general to prosecute a criminal offense committed by a law enforcement officer arising from the actions of the officer resulting in the death of another, regardless of whether the county attorney requests the assistance of the attorney general or decides to independently prosecute the criminal offense committed by the officer. If the attorney general determines that criminal charges are not appropriate, the bill authorizes the attorney general to refer the matter to the Iowa law enforcement academy council (council) to recommend revocation or suspension of the officer's certification.

USE OF CHOKEHOLDS BY PEACE OFFICERS. The bill provides that the use of a chokehold, as defined in the bill, by a peace officer while making an arrest is only justified when the person being arrested has used or threatened to use deadly force in committing a felony, or when the peace officer reasonably believes the person would use deadly force against any person unless immediately apprehended. These are the same circumstances under which the use of deadly force by a peace officer during an arrest is justified under current law.

CERTIFICATIONS — OTHER STATES — REVOCATION OR SUSPENSION. The bill allows the council to appoint administrative law judges. The bill sets forth the circumstances under which the council is required to revoke a law enforcement officer's or reserve peace officer's certification, and the circumstances under which the council is authorized to revoke or suspend an officer's certification. The bill requires an employing agency to notify the council within 10 days of any termination of employment of a law enforcement officer or appointment as a reserve peace officer.

The bill allows the council to adopt rules to establish a process for the certification through examination of law enforcement officers who have been certified in another state. The bill requires that before beginning employment with an employing agency in this state, a law enforcement officer who
has been certified in another state must submit, under oath, a preliminary application for certification through examination to the council which shall include but not be limited to an attestation by the applicant to whether the applicant has had the officer's certification as a law enforcement officer revoked or suspended in another state; has pled guilty to or been convicted of a felony; has been discharged for serious misconduct from employment as a law enforcement officer; or has left, voluntarily quit, or been laid off when the applicant knew or believed that disciplinary investigation or action was imminent or pending which could have resulted in the law enforcement officer being discharged for serious misconduct. If the council denies the preliminary application for certification through examination, the applicant shall be prohibited from continued employment as a law enforcement officer in this state.

LAW ENFORCEMENT TRAINING — DE-ESCALATION TECHNIQUES AND PREVENTION OF BIAS. The bill requires a law enforcement agency to provide annual training to every law enforcement officer employed by the law enforcement agency on issues relating to de-escalation techniques and the prevention of bias. The bill requires the Iowa law enforcement academy to develop and disseminate training guidelines meeting certain requirements set forth in the bill, in consultation with certain parties including the Iowa civil rights commission. The bill may include a state mandate as defined in Code section 25B.3. The bill makes inapplicable Code section 25B.2, subsection 3, which would relieve a political subdivision from complying with a state mandate if funding for the cost of the state mandate is not provided or specified. Therefore, political subdivisions are required to comply with any state mandate included in the bill.

EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. Unless otherwise provided, the bill, if approved by the governor on or after July 1, 2020, takes effect upon enactment and applies...
1 retroactively to July 1, 2020.