

116TH CONGRESS
2D SESSION

H. R. 7206

To amend title 18, United States Code, to prohibit the use of excessive force under color of law by law enforcement and correctional officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2020

Mr. ESPAILLAT introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit the use of excessive force under color of law by law enforcement and correctional officers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Excessive Force Pre-
5 vention and Accountability Act of 2020”.

6 **SEC. 2. EXCESSIVE FORCE.**

7 (a) IN GENERAL.—Chapter 13 of title 18, United
8 States Code, is amended by inserting after section 242 the
9 following:

1 **“§ 242A. Excessive force**

2 “(a) INTENTIONAL ACTS.—Whoever, acting under
3 color of law, causes bodily injury to another through the
4 intentional use of excessive force shall be imprisoned not
5 more than ten years; and if death results, shall be impris-
6 oned for any term of years or for life.

7 “(b) RECKLESS ACTS.—Whoever, acting under color
8 of law, causes bodily injury to another through the reck-
9 less use of excessive force, shall be imprisoned not more
10 than five years; and, if death results, shall be imprisoned
11 not more than 20 years.

12 “(c) FAILURE TO INTERVENE.—

13 “(1) Whoever, acting under color of law, is con-
14 temporaneously aware of an ongoing violation of
15 subsection (a) or (b), has the opportunity to stop or
16 prevent the use of excessive force, and chooses not
17 to intervene shall be imprisoned not more than 5
18 years; and if death results, shall be imprisoned not
19 more than 20 years.

20 “(2) It shall not be a defense under this sub-
21 section that the person who fails to intervene is of
22 a lower rank than, junior in status to, or employed
23 in a different agency or component from the person
24 using excessive force.

25 “(d) NON-DEFENSES.—In a prosecution for an of-
26 fense under this section, there need not be proof that the

1 defendant had familiarity with this code section, or had
2 any knowledge that any particular constitutional amend-
3 ment, Federal or State law, or any policy or regulation
4 prohibited the use of force at issue.

5 “(e) DEFINITIONS.—

6 “(1) INTENTIONAL.—Purposefully using more
7 force than what the person knows is reasonably nec-
8 essary under all the facts and circumstances.

9 “(2) RECKLESS.—Consciously disregarding a
10 substantial and unjustifiable risk that excessive force
11 will result from the person’s actions. The risk must
12 be of such a nature and degree that, considering the
13 nature and purpose of the person’s conduct and the
14 circumstances known to that person, its disregard
15 involves a gross deviation from the standard of con-
16 duct that a law-abiding person, acting under color of
17 law, would observe in the person’s situation.

18 “(3) EXCESSIVE FORCE.—Force that is more
19 than what is reasonably necessary to accomplish a
20 legitimate law enforcement function. In a jail, pris-
21 on, or other correctional setting, force that is more
22 than is reasonably necessary to accomplish a legiti-
23 mate penological function.

24 “(4) COLOR OF LAW.—A person acts under
25 color of law if the person is performing a legitimate

1 law enforcement or penological function as an em-
2 ployee, contractor, or otherwise on behalf of, a Fed-
3 eral, State, or local government.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—

5 The table of sections for chapter 13 of title 18, United
6 States Code, is amended by inserting after the item relat-
7 ing to section 242 the following:

“242A. Excessive force.”.

