**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 3478**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rutherford

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Companion/Similar bill(s): 3020

Introduced in the House on January 17, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Law enforcement

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/17/2017 House Introduced and read first time ([House Journal‑page 7](file:///h:\hj\20170117.docx))

1/17/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 7](file:///h:\hj\20170117.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3478&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[1/17/2017](file:///p:\pprever\2017-18\3478_20170117.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑1‑250 SO AS TO PROHIBIT A LAW ENFORCEMENT OFFICER FROM USING EXCESSIVE RESTRAINT WHEN DETAINING A PERSON OR EXCESSIVE FORCE WHILE MAKING AN ARREST AND TO PROVIDE PENALTIES FOR AN OFFICER WHO USES EXCESSIVE RESTRAINT OR FORCE; AND BY ADDING SECTION 23‑1‑255, SO AS TO GRANT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION SPECIFIC AND EXCLUSIVE JURISDICTION AND AUTHORITY TO CONDUCT AN INVESTIGATION OF ALL OFFICER‑INVOLVED USES OF FORCE THAT RESULT, OR COULD HAVE RESULTED, IN SEVERE BODILY INJURY OR DEATH, TO ALLOW FOR AN INVESTIGATION OF AN OFFICER‑INVOLVED USE OF FORCE TO BE COMPLETED BY A SEPARATE LAW ENFORCEMENT AGENCY IN CERTAIN CIRCUMSTANCES, TO ESTABLISH A PROTOCOL FOR EVIDENCE COLLECTION AND PROCESSING IN CERTAIN CIRCUMSTANCES, TO GRANT AN INVESTIGATING OFFICER THE SAME AUTHORITY AS HE WOULD HAVE IN HIS HOME JURISDICTION FOR THE DURATION OF THE INVESTIGATION, TO ESTABLISH A PROCEDURE FOR THE FORWARDING OF THE EVIDENCE TO THE ATTORNEY GENERAL UPON COMPLETION OF THE INVESTIGATION, AND TO ESTABLISH PENALTIES FOR THE FAILURE TO COMPLETE AN INDEPENDENT INVESTIGATION PURSUANT TO THE PROVISIONS OF THIS SECTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑250. (A) A law enforcement officer may not use greater restraint than is necessary when detaining a person or unreasonable force when making an arrest.

(B) Investigations into officer‑involved uses of force are subject to the provisions of Section 23‑1‑255.

(C) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not less than a mandatory minimum of two years and not more than thirty years. A violation of the provisions of this section is not considered a lesser-included offense of another offense, and the penalties provided in this section are in addition to the penalties provided for any other offense and any sentence imposed pursuant to the provisions of this section must be served consecutively.”

SECTION 2. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑255. (A) The South Carolina Law Enforcement Division shall have specific and exclusive jurisdiction and authority in the investigation of all officer‑involved uses of force that result, or could have resulted, in severe bodily injury or death. However, if the officer is employed by the South Carolina Law Enforcement Division, the sheriff of the county in which the incident occurred must investigate the officer‑involved use of force, regardless of whether the use of force occurred within an incorporated jurisdiction. If the sheriff of the county in which the incident occurred does not employ a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations, the sheriff must defer the investigation to a law enforcement agency that does employ a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper death investigation.

(B) In the event an officer‑involved use of force occurs that includes both an employee of the South Carolina Law Enforcement division and the sheriff, or one of his deputies, of the county in which the officer‑involved use of force occurred, the solicitor of the county in which the incident occurred must defer the investigation to a law enforcement agency that employs a unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper death investigation.

(C) When an officer‑involved use of force occurs that involves an officer who is employed by the South Carolina Law Enforcement Division all forensic evidence collected at the scene must be submitted to and analyzed by an accredited state law enforcement laboratory outside of the State of South Carolina.

(D) An officer, or officers, investigating an officer‑involved use of force pursuant to this section has the same authority as he has in his home jurisdiction, for the duration of the investigation.

(E) Upon completion, the investigation must be forwarded to the Office of Attorney General prior to the initiation or declination of any formal criminal action.

(F) A person who knowingly and wilfully violates the provisions of subsection (A) or (B) is subject to punishment as provided for in Section 8‑1‑80, even if the person’s authority extends beyond a single election or judicial district.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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