An Act

HOUSE BILL 16-1264

BY REPRESENTATIVE(S) Melton, Esgar, Salazar, Williams, Becker K., Duran, Fields, Kagan, Lontine, Mitsch Bush, Moreno, Pabon, Rosenthal, Hullinghorst, Garnett, Lebsock, McCann;
also SENATOR(S) Johnston, Aguilar, Carroll, Guzman, Heath, Hodge, Jones, Kefalas, Kerr, Martinez Humenik, Merrifield, Newell, Roberts, Steadman, Todd, Ulibarri.

CONCERNING PROHIBITING THE USE OF A CHOKEHOLD BY A PEACE OFFICER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-1-707, **amend** (1) introductory portion, (3), and (4); and **add** (2.5) as follows:

18-1-707. Use of physical force in making an arrest or in preventing an escape - definitions. (1) Except as provided in subsection (2) SUBSECTIONS (2) AND (2.5) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(2.5) (a) A PEACE OFFICER IS JUSTIFIED IN USING A CHOKEHOLD UPON ANOTHER PERSON FOR THE PURPOSES SPECIFIED IN SUBSECTION (1) OF THIS SECTION ONLY WHEN HE OR SHE REASONABLY BELIEVES THAT IT IS

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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NECESSARY:

(I) TO DEFEND HIMSELF OR HERSELF OR A THIRD PERSON FROM WHAT HE OR SHE REASONABLY BELIEVES TO BE THE USE OR IMMINENT USE OF DEADLY PHYSICAL FORCE OR INFLICTION OF BODILY INJURY; OR

(II) TO EFFECT AN ARREST, OR TO PREVENT THE ESCAPE FROM CUSTODY, OF A PERSON WHOM HE OR SHE REASONABLY BELIEVES:

(A) HAS COMMITTED OR ATTEMPTED TO COMMIT A FELONY INVOLVING OR THREATENING THE USE OF A DEADLY WEAPON; OR

(B) IS ATTEMPTING TO ESCAPE BY THE USE OF PHYSICAL FORCE; OR

(C) INDICATES, EXCEPT THROUGH A MOTOR VEHICLE, THAT HE OR SHE IS LIKELY TO ENDANGER HUMAN LIFE OR TO INFLICT SERIOUS BODILY INJURY TO ANOTHER UNLESS HE OR SHE IS APPREHENDED WITHOUT DELAY.

(b) FOR THE PURPOSES OF THIS SUBSECTION, "CHOKEHOLD" MEANS A METHOD BY WHICH A PERSON HOLDS ANOTHER PERSON BY PUTTING HIS OR HER ARM AROUND THE OTHER PERSON'S NECK WITH SUFFICIENT PRESSURE TO MAKE BREATHING DIFFICULT OR IMPOSSIBLE AND INCLUDES, BUT IS NOT LIMITED TO, ANY PRESSURE TO THE THROAT OR WINDPIPE, WHICH MAY PREVENT OR HINDER BREATHING OR REDUCE INTAKE OF AIR.

(3) Nothing in subsection (2) (b) OR SUBSECTION (2.5) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1), and (2), AND (2.5) of this section unless the warrant is invalid and is known

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by the officer to be invalid.

SECTION 2. Effective date - applicability. This act takes effect July 1, 2016, and applies to offenses committed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED_____

_____
John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

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