

BILL ANALYSIS

C.S.S.B. 2593
By: Springer
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Law enforcement officers are legally justified to use force in many situations to bring suspects to justice, to protect others, and for personal defense. A November 2022 special report by the Bureau of Justice Statistics of the U.S. Department of Justice, *Contacts Between Police and the Public, 2020*, shows that a small percentage of police encounters with the public during that year involved the threat of force or nonfatal use of force. While extreme uses of force often garner media attention, lesser levels of force are used by police often without the public noticing. According to the Police Executive Research Forum, research has found that less-lethal devices, such as tasers or beanbag rounds, can reduce injuries to both suspects and officers compared to other more lethal options, such as firearms. C.S.S.B. 2593 seeks to encourage peace officers to rely on less-lethal projectile devices by providing a defense to prosecution for certain assaultive offenses involving the use or exhibition of such a device by a peace officer under certain circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 2593 amends the Penal Code to establish as a defense to prosecution for assault, aggravated assault, or deadly conduct that:

- the conduct constituting the threat or bodily injury resulted from the use or exhibition of a less-lethal projectile device;
- the actor reasonably believed the use or exhibition of the device was immediately necessary to accomplish the actor's official duties as a peace officer;
- the actor did not intentionally, knowingly, or recklessly cause serious bodily injury or death when using or exhibiting the device; and
- the actor used or exhibited the device in substantial compliance with the actor's training, the policies and procedures of the law enforcement agency employing the actor and the manufacturer's instructions for the device.

The bill defines "less-lethal projectile device" as any weapon, device, or munition that deploys a projectile that is designed or intended to temporarily incapacitate the target while minimizing the risk of serious bodily injury or death.

C.S.S.B. 2593 applies only to an offense committed on or after the bill's effective date and provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2593 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

While both the engrossed and the substitute provide a defense to prosecution for certain assaultive offenses if the conduct in question involved the use or exhibition of a less-lethal projectile device by a peace officer, the engrossed included injury to a child, elderly individual, or disabled individual among the applicable offenses, but the substitute does not include that offense. The substitute revises the conditions that constitute the defense to prosecution in the engrossed as follows:

- changes the condition that the conduct constituting the offense involved the use or exhibition of a less-lethal projectile device, as in the engrossed, to a condition that the conduct constituting the threat or bodily injury resulted from that use or exhibition;
- changes the condition that the actor used or exhibited the device while discharging the actor's official duties as a peace officer, as in the engrossed, to a condition that the actor reasonably believed the use or exhibition of the device was immediately necessary to accomplish the actor's official duties as a peace officer;
- changes the condition that the actor did not intend to cause serious bodily injury or death when using or exhibiting the device, as in the engrossed, to a condition that the actor did not knowingly, or recklessly cause serious bodily injury or death when using or exhibiting the device; and
- includes as an additional condition of the defense, which was not included in the engrossed, that the actor used or exhibited the device in substantial compliance with the actor's training, the policies and procedures of the law enforcement agency employing the actor, and the manufacturer's instructions for the device.

Whereas the engrossed established that the bill's provisions apply to conduct that occurs before, on, or after the bill's effective date, except that a final conviction for an offense that exists on that date is unaffected by the bill, the substitute establishes instead that the bill's provisions apply only to an offense committed on or after the bill's effective date and provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.