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# STATE LAW ENFORCEMENT TRENDS & LEGISLATION

AMBER WIDGERY | JULY 2020



# NATIONAL CONFERENCE OF STATE LEGISLATURES



- Non-profit, bi-partisan organization.
- Members are all 7,383 legislators and 30,000 legislative staff in 50 states, D.C. and U.S. territories.
- Offices in Denver and D.C.
- Among our goals - To provide legislatures with information and research about policy issues, both state and federal.
- NCSL tracks state policy developments in all public policy areas.

# LEGISLATIVE RESPONSES FOR POLICING

TOPICS		STATES		
<input type="checkbox"/> All Topics	<input type="checkbox"/> Executive Orders	<input type="checkbox"/> All States	<input type="checkbox"/> Alabama	<input type="checkbox"/> Alaska
<input type="checkbox"/> Other Issues	<input type="checkbox"/> Oversight and Data	<input type="checkbox"/> Arizona	<input type="checkbox"/> Arkansas	<input type="checkbox"/> California
<input type="checkbox"/> Policing Alternatives and Collaboration	<input type="checkbox"/> Technology	<input type="checkbox"/> Colorado	<input type="checkbox"/> Connecticut	<input type="checkbox"/> Delaware
<input type="checkbox"/> Training, Standards and Certification	<input type="checkbox"/> Use of Force			

KEYWORD	STATUS	BILL NUMBER	YEAR	AUTHOR
<input type="text"/>	All ▾	<input type="text"/>	2020 ▾	<input type="text"/>

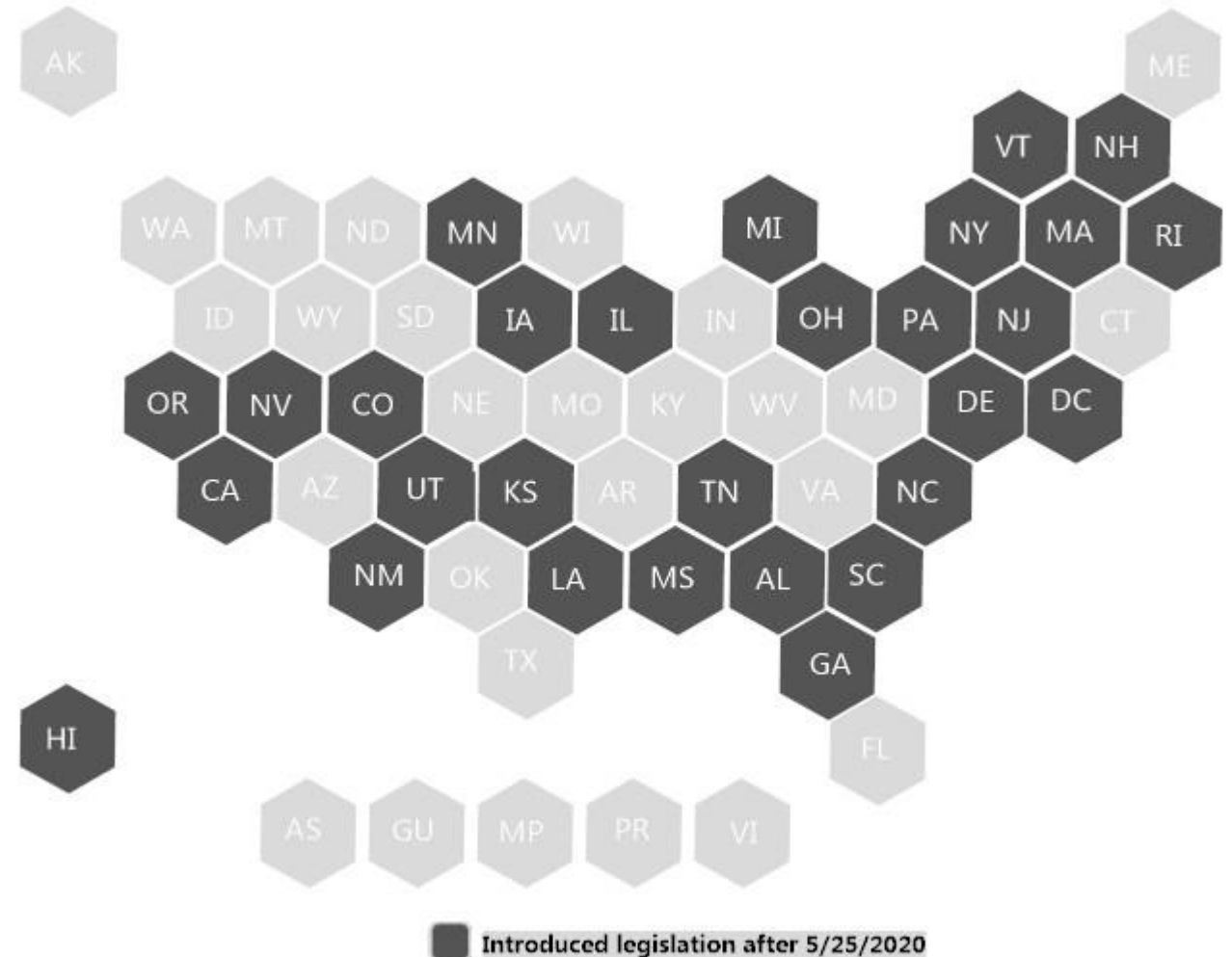
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# LEGISLATION BY THE NUMBERS

- 28 states and Washington D.C. have introduced or filed legislation
- 395 bills introduced or prefiled
- 37 enacted bills/adopted resolutions
- 5 bills awaiting executive action
- 232 measures currently pending



# ENACTED LEGISLATION

- 16 states and Washington D.C. have enacted legislation. Topics include:
  - Oversight & Data
  - Use of Force, including Chokeholds
  - Duty to Intervene/Report/Provide Aid
  - Independent Investigation/Prosecution
  - Training
  - Officer Certification/Decertification
  - Body Cameras



# ENACTED LEGISLATION: OVERSIGHT & DATA

Creation of new state mechanisms to study or oversee policy:

- GA SR 1007 – Creates the Senate Law Enforcement Study Reform Committee.
- LA SCR 7 – Establishes the Police Training, Screening and De-escalation Task Force.
- OR HB 4201 – Establishes the joint legislative committee on transparent policing and use of force reform.
- RI SB 2867 – Creates a special legislative study task force to study and provide recommendations on the law enforcement officers' bill of rights.

Data Collection:

- CO SB 217 – Requires reporting on use of force, weapon unholstering and other police contact data. Requires public database.
- NY AB 10609 – Requires reporting on arrested-related deaths with annual reports to the legislature and the governor.
- VT SB 219 – Conditions state grant funding for departments on compliance with existing reporting requirements for demographic information on police stops.

# ENACTED LEGISLATION: USE OF FORCE

## Restrictions and Standards:

- CO SB 217 – Modernizes the use of force standard to reflect case law, requires use of nonviolent means when possible before using force, limits when physical force may be used, requires that force be consistent with minimization of injury, and prohibits use of chokeholds. Requires identification and warning prior to use of deadly force and restricts when deadly force may be used. Restricts when and how chemical agents and projectiles may be used in response to protests.
- IA HB 2647 – Restricts the use of chokeholds to when deadly force would otherwise be authorized.
- NH HB 1645 – Restricts the use of chokeholds except in certain codified circumstances.
- NY AB 6144 – Establishes the crime of strangulation in the first degree specific to officers who disregard procedures banned by their employment related to chokeholds.



# ENACTED LEGISLATION: USE OF FORCE

## Restrictions and Standards:

- OR HB 4203 – Provides that officers may not use force that limits the ability to breath.
- OR HB 4208 - Prohibits law enforcement agencies from using tear gas or from using long range acoustic devices or sound cannons for the purposes of crowd control, except in circumstances constituting a riot.
- UT HB 5007 – Prohibits officers from using chokeholds or restraints that may cause unconsciousness.
- VT SB 219 – Restrict the use of restrain maneuvers including chokeholds. Criminalizes the use of a prohibited restraint when it results in serious bodily injury or death. Repeals justifiable homicide provision in 2021 to prompt the legislature to address the language.



# ENACTED LEGISLATION: USE OF FORCE

## Legal Duty and Liability:

- CO SB 217 – Requires officers to render aid to any injured or affected person as soon as practicable. Creates a duty to intervene to prevent or stop physical force that exceeds permitted force. Requires an officer to report an intervention to their supervisor. Creates protections for intervening officers and criminal penalties and discipline, including termination for failing to intervene. Creates a civil action for deprivation of rights by local law enforcement officers, including personal liability of up to \$25,000 or 5% of the judgment. Authorizes the state attorney general to file a civil action alleging pattern or practice of conduct in violation of a persons' rights.
- NH HB 1645 – Defines misconduct and creates a duty to report officer misconduct to the chief and subsequently to the police standards and training council.
- NM SB 8 – Specifies that state immunity does not apply for offenses and violations involving officers acting within the scope of their duties.
- NY SB 6601 – Creates a duty to provide attention to the medical and mental health needs of a person under arrest or otherwise in the custody of an officer. Requires obtaining assistance and treatment that is reasonable and provided in good faith.
- OR HB 4205 – Requires the Department of Public Safety Standards and Training to adopt rules requiring officers to intervene to stop another police officer from engaging in conduct that is unethical or that violates law, rules, or policy, defines misconduct.

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# ENACTED LEGISLATION: USE OF FORCE

## Investigation and Prosecution:

- IA HB 2647 – Authorizes the attorney general to prosecute a criminal offense committed by a law enforcement officer arising from a law enforcement-involved death.
- NY SB 2574 - Establishes the Office of Special Investigation within the Department of Law to investigate and prosecute any alleged criminal offense or offenses committed by a police officer, or peace officer, concerning the death of any person as a result of any encounter with such police or peace officer.

# ENACTED LEGISLATION: TRAINING

- CO SB 217 – Requires that officers be trained on new use of force provisions.
- IA HB 2647 – Requires annual training on de-escalation techniques and prevention of bias. Provides guidance on training.
- OR HB 4205 – Directs the Board of Public Safety Standards and Training to adopt rules prohibiting the training of officers to use physical force that impedes normal breathing or circulation of blood by applying pressure on the throat or neck.
- UT HB 5007 – Bans training on the use of chokeholds and restraints that may cause unconsciousness.

# ENACTED LEGISLATION: CERTIFICATION

- CO SB 217 – Require the Police Officer Standards and Training Board to revoke officer certification for inappropriate use of force or failure to intervene. Restricts the POST Board from reinstating certification or granting new certification unless the officer is exonerated by a court. POST Board is required to record decertification in a database.
- IA HB 2647 – Establishes circumstances under which the Iowa Law Enforcement Academy Council is required to revoke officer certification, may suspend or revoke certification or may deny an application for certification.
- NJ AB 744 – Requires that law enforcement agencies provide internal affairs and personnel files to other agencies under certain circumstances.
- NM SB 8 – Requires permanent revocation of certification for a conviction involving unlawful use or threatened use of force or a crime involving failure to intervene.
- OR HB 4205 – Authorizes suspension or revocation of certification for failure to intervene or report.
- OR HB 4207– Requires denial of application, suspension or revocation of certification upon a finding of certain criminal convictions, status as a sex offender, and discharge for cause related to certain circumstances. Requires a database of decertification.

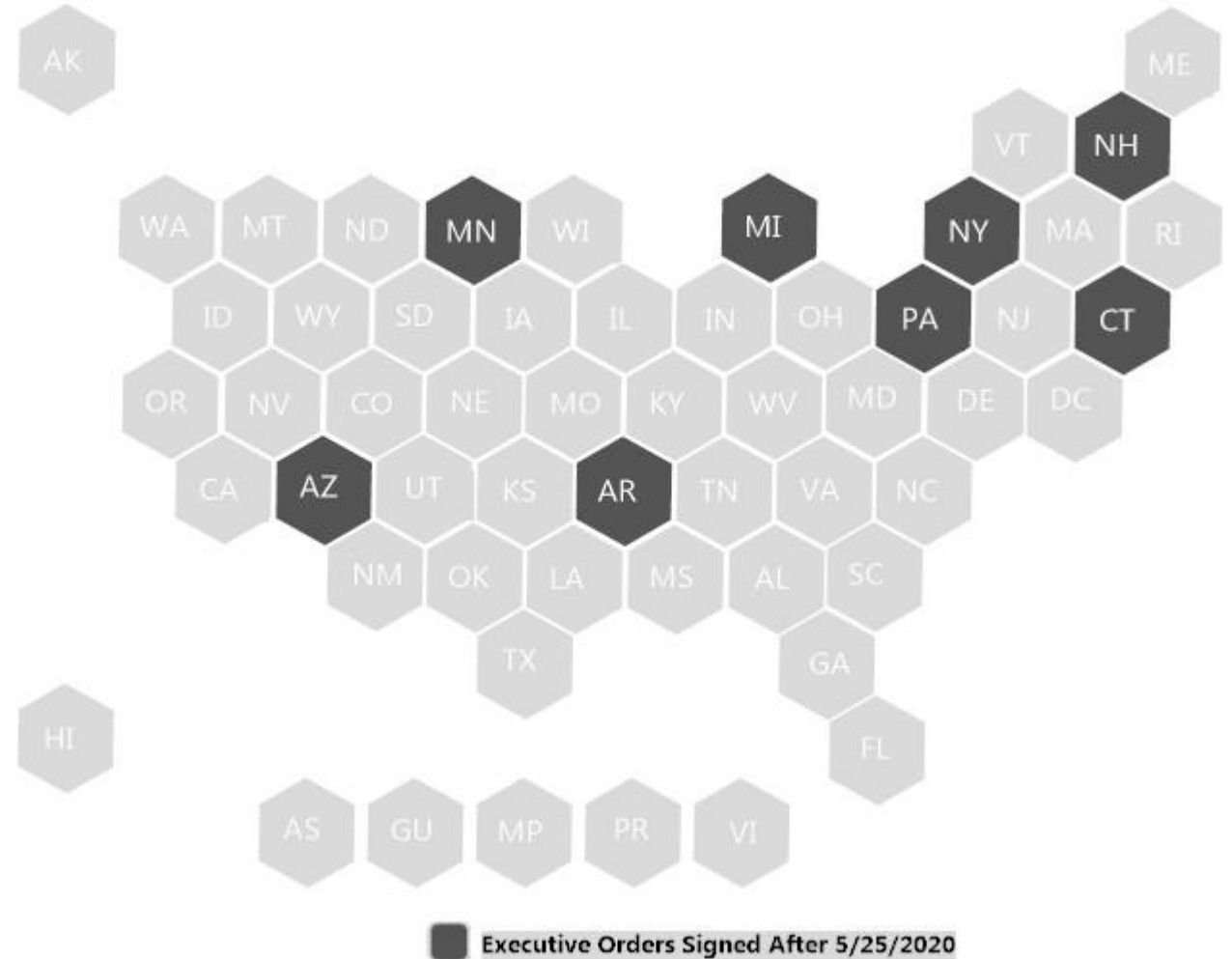
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# ENACTED LEGISLATION: BODY-WORN CAMERAS

- CO SB 217 – Requires broad adoption of body-worn cameras and establishes regulation for use of body-worn cameras.
- NM SB 8 – Requires certain law enforcement officers to use body-worn cameras and requires agency adoption of policies and procedures.
- NY SB 8493 - Establishes the State Police Body Worn Cameras Program, requires the Division of State Police to provide body-worn cameras to be worn by all officers.
- VT SB 219 – Requires the Department of Public Safety to equip law enforcement officers with body cameras.

# EXECUTIVE ORDERS

- 8 states have signed executive orders
- Orders in AR, NH and NY create new task forces
- The CT order is substantive and addresses use of force, community engagement, demilitarization and body cameras
- The PA order creates a citizens' commission.
- The MI order expands the membership of the Commission on Law Enforcement Standards
- AZ & MN are emergency orders addressing immediate situation



# LEGISLATIVE TRENDS 2014-2019

Legislative interest in policing policy started to trend upwards in 2014. Below are some of the areas that were addressed by legislation during those 6 years.

- Expansion of various types of training requirements including training on cultural competency, disabilities, use of force and behavioral health interactions.
- Regulation and encouragement for the use of technology, specifically body cameras and drones.
- Data collection, specifically demographic information for motor vehicles stops.
- Use of force including data collection and reporting, investigations, prosecution, standards, training, and use of specific kinds of force.
- Regulation of civil asset forfeiture.
- Due process protections including warrant requirements, cell phone tracking, and interrogation procedures.
- Community policing initiatives, including appropriations for pilot programs and policing alternatives.
- Deflection/pre-arrest diversion and other early intervention models.

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# POLICING POLICY STATUTES BY THE NUMBERS

States have taken the following actions. At least:

- 50 authorize the use of citation in lieu of arrest.
- 27 and Washington D.C. require officers to be trained to better respond to individuals with mental health, substance use and behavioral health disorders.
- 21 require the collection of demographic information for motor vehicle stops.
- 15 created procedures to improve transparency and integrity of investigations into officer-involved deaths or excessive force.



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# POLICING POLICY STATUTES BY THE NUMBERS

States have taken the following actions. At least:

- 15 require reporting or data collection on use of force incidents.
- 13 and Washington D.C. appropriated funds for police departments to support the use of body cameras.
- 12 require training related to cultural and racial diversity, racial profiling prohibitions, training to raise awareness of bias, or supervisor training to detect and effectively respond to biased behavior.
- 12 have requirements or guidelines for establishing crisis intervention teams.
  - Recent legislatively supported pilot programs have also encouraged other alternative responses that include law enforcement partnership models or responses from social workers and mental health professionals in lieu of law enforcement.

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# POLICING POLICY STATUTES BY THE NUMBERS

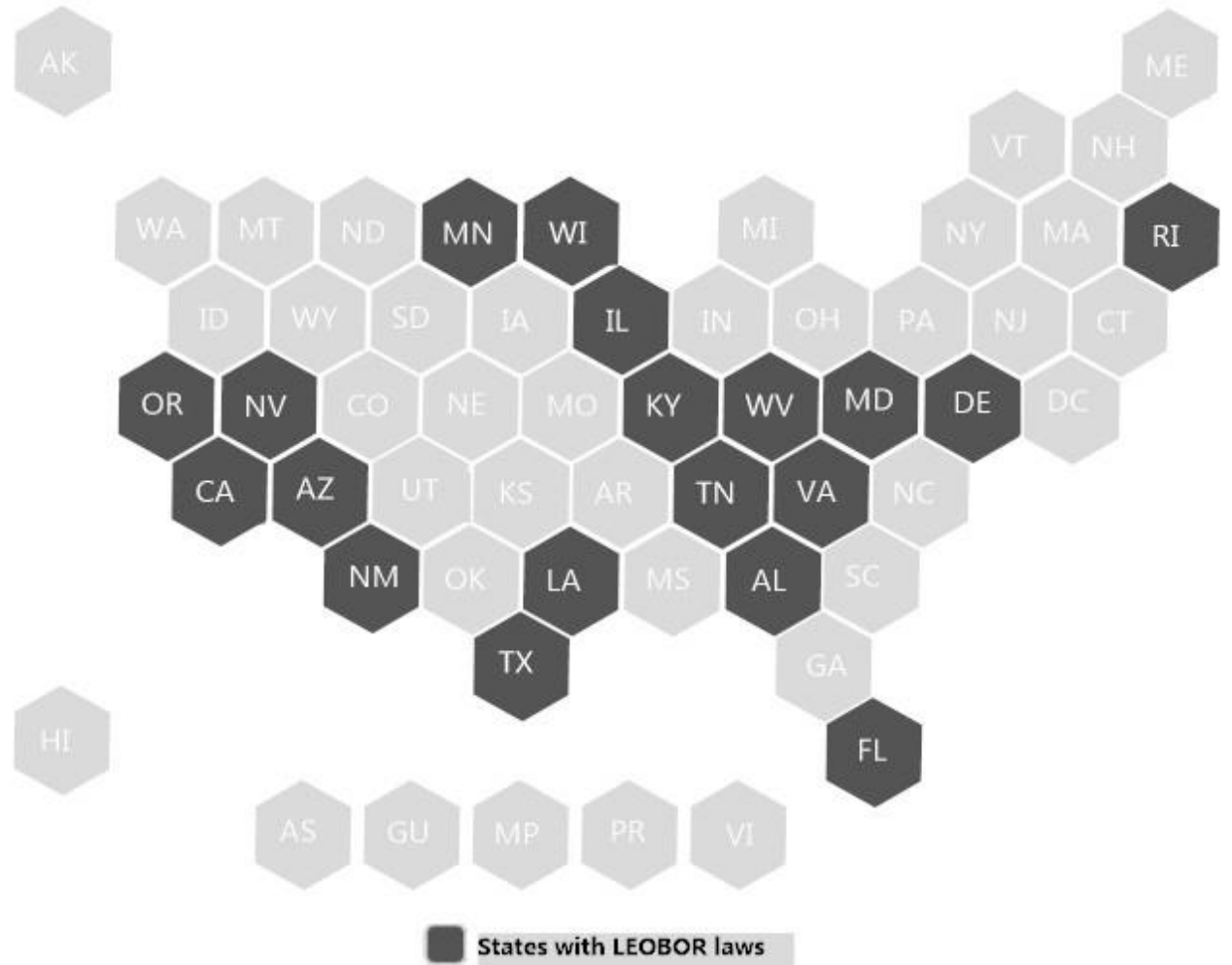
States have taken the following actions. At least:

- 11 have laws supporting the duty to intervene.
- 11 and Washington D.C. restrict or prohibit neck restraints.
- 10 require independent investigation of police-involved incidents by a state agency, the attorney general or other outside source.
- 8 require that at least some law enforcement officers utilize body-worn cameras.

# LAW ENFORCEMENT OFFICERS BILL OF RIGHTS LAWS

Overview of common elements in 19 states:

- Scope of applicability: who and what circumstances
- Notice of investigation
- Timing
- Investigation structure
- Hearings: structure and appeals
- Other





Thank You!