

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 589

Short Title: Prohibit LEO Use of Chemical Agents on Minors. (Public)

Sponsors: Representatives K. Smith and Hawkins (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 20, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT LAW ENFORCEMENT OFFICERS FROM USING CHEMICAL
3 AGENTS ON MINORS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 15A-401(d) reads as rewritten:

6 "(d) Use of Force in Arrest. –

7 (1) Subject to the provisions of ~~subdivision (2)~~, subdivisions (2) and (3) of this
8 subsection, a law-enforcement officer is justified in using force upon another
9 person when and to the extent that he reasonably believes it necessary:

- 10 a. To prevent the escape from custody or to effect an arrest of a person
11 who he reasonably believes has committed a criminal offense, unless
12 he knows that the arrest is unauthorized; or
13 b. To defend himself or a third person from what he reasonably believes
14 to be the use or imminent use of physical force while effecting or
15 attempting to effect an arrest or while preventing or attempting to
16 prevent an escape.

17 ...

18 (3) A law-enforcement officer shall not use chemical agents on a person that the
19 officer knows or should know is under the age of 18.

20 a. For the purposes of this section, a chemical agent shall include, but is
21 not limited to, the following:

- 22 1. Oleoresin.
23 2. Capsicum.
24 3. Pepper spray.
25 4. Tear gas.

26 b. Any State or local department or office, campus police agency, or
27 company policy agency, employing a sworn law-enforcement officer
28 with the power of arrest shall develop a mandatory policy that
29 incorporates the provisions of this section. The policies developed
30 pursuant to this sub-subdivision shall be made available to the public
31 by issuance of a news release that is published on the department,
32 office, or agency's website."

33 **SECTION 1.(b)** Article 4 of Chapter 20 of the General Statutes is amended by
34 adding a new section to read:

35 "**§ 20-196.6. Restriction on use of chemical agents by State Troopers.**



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1 (a) A State Trooper shall not use chemical agents on a person that the State Trooper
2 knows or should know is under the age of 18.

3 (b) For the purposes of this section, a chemical agent shall include, but is not limited to,
4 the following:

5 (1) Oleoresin.

6 (2) Capsicum.

7 (3) Pepper spray.

8 (4) Tear gas.

9 (c) The State Highway Patrol shall develop a mandatory policy that incorporates the
10 provisions of this section. The policies developed pursuant to this subsection shall be made
11 available to the public by issuance of a news release that is published on the State Highway Patrol
12 website."

13 **SECTION 1.(c)** Chapter 74E of the General Statutes is amended by adding a new
14 section to read:

15 **"§ 74E-10.1. Restriction on use of chemical agents by company police.**

16 (a) A company police officer shall not use chemical agents on a person that the company
17 police officer knows or should know is under the age of 18.

18 (b) For the purposes of this section, a chemical agent shall include, but is not limited to,
19 the following:

20 (1) Oleoresin.

21 (2) Capsicum.

22 (3) Pepper spray.

23 (4) Tear gas.

24 (c) The company police agency shall develop a mandatory policy that incorporates the
25 provisions of this section. The policies developed pursuant to this subsection shall be made
26 available to the public by issuance of a news release that is published on the company police
27 agency website."

28 **SECTION 1.(d)** Chapter 74G of the General Statutes is amended by adding a new
29 section to read:

30 **"§ 74G-10.1. Restriction on use of chemical agents by campus police.**

31 (a) A campus police officer shall not use chemical agents on a person that the campus
32 police officer knows or should know is under the age of 18.

33 (b) For the purposes of this section, a chemical agent shall include, but is not limited to,
34 the following:

35 (1) Oleoresin.

36 (2) Capsicum.

37 (3) Pepper spray.

38 (4) Tear gas.

39 (c) The campus police agency shall develop a mandatory policy that incorporates the
40 provisions of this section. The policies developed pursuant to this subsection shall be made
41 available to the public by issuance of a news release that is published on the campus police agency
42 website."

43 **SECTION 1.(e)** Subpart C of Part 4 of Article 13 of Chapter 143B of the General
44 Statutes is amended by adding a new section to read:

45 **"§ 143B-927.1. Restriction on use of chemical agents by law enforcement officers.**

46 (a) A law enforcement officer of the State Bureau of Investigation shall not use chemical
47 agents on a person that the law enforcement officer knows or should know is under the age of
48 18.

49 (b) For the purposes of this section, a chemical agent shall include, but is not limited to,
50 the following:

51 (1) Oleoresin.

- 1 (2) Capsicum.
2 (3) Pepper spray.
3 (4) Tear gas.

4 (c) The State Bureau of Investigation shall develop a mandatory policy that incorporates
5 the provisions of this section. The policies developed pursuant to this subsection shall be made
6 available to the public by issuance of a news release that is published on the State Bureau of
7 Investigation website."

8 **SECTION 1.(f)** Article 10 of Chapter 153A of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 153A-213. Restriction on use of chemical agents by law enforcement officers.**

11 (a) A county law enforcement officer shall not use chemical agents on a person that the
12 law enforcement officer knows or should know is under the age of 18.

13 (b) For the purposes of this section, a chemical agent shall include, but is not limited to,
14 the following:

- 15 (1) Oleoresin.
16 (2) Capsicum.
17 (3) Pepper spray.
18 (4) Tear gas.

19 (c) The county shall develop a mandatory policy that incorporates the provisions of this
20 section. The policies developed pursuant to this subsection shall be made available to the public
21 by issuance of a news release that is published on the county website."

22 **SECTION 1.(g)** Article 13 of Chapter 160A of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 160A-290. Restriction on use of chemical agents by law enforcement officers.**

25 (a) A city law enforcement officer shall not use chemical agents on a person that the law
26 enforcement officer knows or should know is under the age of 18.

27 (b) For the purposes of this section, a chemical agent shall include, but is not limited to,
28 the following:

- 29 (1) Oleoresin.
30 (2) Capsicum.
31 (3) Pepper spray.
32 (4) Tear gas.

33 (c) The city shall develop a mandatory policy that incorporates the provisions of this
34 section. The policies developed pursuant to this subsection shall be made available to the public
35 by issuance of a news release that is published on the city website."

36 **SECTION 2.** This act becomes effective October 1, 2021.