

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 876, Page 3, Section 590.075, Line 5, by inserting
2 after all of said section and line the following:

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4 "590.1065. 1. A peace officer shall intervene to prevent or stop another peace officer from using
5 physical force that exceeds the degree of force permitted under this chapter in pursuance of the other peace
6 officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention,
7 taking any person into custody, booking any person, or in the process of crowd or riot control without regard
8 to chain of command.

9 2. A peace officer who intervenes as required under subsection 1 of this section shall report the
10 intervention to his or her immediate supervisor. At a minimum, the report required under this subsection
11 shall include:

- 12 (1) The date, time, and place of the occurrence;
13 (2) The identity, if known and description of the participants; and
14 (3) A description of the intervention actions taken.

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16 Such report shall be made in writing within ten days of the occurrence of the use of such force and shall be
17 appended to all other reports of the incident.

18 3. A member of a law enforcement agency shall not discipline or retaliate in any way against a peace
19 officer for intervening as required under subsection 1 of this section, for reporting unlawful or
20 unconstitutional conduct, or for failing to follow what the peace officer reasonably believes is an unlawful or
21 unconstitutional directive.

22 4. When an internal investigation finds that a peace officer failed to intervene or prevent the use of
23 unlawful physical force under this section, such finding shall be presented to the prosecuting attorney for a
24 determination as to whether charges should be filed. However, nothing in this subsection prohibits the
25 prosecuting attorney from charging a peace officer with failure to intervene before the conclusion of any
26 internal investigation.

27 5. In addition to any criminal liability and penalty, when an internal investigation finds that a peace
28 officer failed to intervene or prevent the use of unlawful physical force under this section in an incident
29 resulting in serious bodily injury or death to any person, the peace officer's employer shall subject the peace
30 officer to discipline, up to and including termination, to the extent permitted under applicable constitutional
31 and statutory law, and the POST Commission shall, upon receipt of notice of the peace officer's discipline,
32 conduct a hearing regarding the disciplinary action to determine whether to revoke the peace officer's
33 certification under chapter 590. If the license is revoked, such revocation may only be overturned if the
34 peace officer is exonerated by a court.

35 6. In a case in which the prosecution charges a peace officer with offenses related to and based on
36 the use of excessive force but does not file charges against any other peace officer or officers who were at the
37 scene during the use of force, the prosecuting attorney shall prepare a written report explaining his or her
38 basis for the decision not to charge any other peace officer with criminal conduct and shall disclose the report
39 to the public; except that if disclosure of the report would substantially interfere with or jeopardize an
40 ongoing criminal investigation, the prosecuting attorney may delay public disclosure until the completion of

Action Taken _____ Date _____

1 the investigation. The prosecuting attorney shall post the written report on its website or, if it does not have a
2 website, make it publicly available upon request.

3 7. The offense of failing to intervene to prevent the use of unlawful force under this section is
4 considered an act of complicity and the penalty for such act shall be equal to the penalty imposed against the
5 peace officer who committed the original wrongdoing for which the peace officer failed to intervene.
6 Nothing in this subsection shall prohibit or discourage prosecution of any other criminal offense related to
7 failure to intervene, including a higher charge, if supported by the evidence.

8 590.1250. The provisions of sections 590.1250 to 590.1256 shall be known and may be cited as the
9 "Law Enforcement Accountability Act"."; and

10
11 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.