SPONSOR: Rep. Chukwuocha & Rep. Bolden & Rep. Cooke & Rep. Dorsey Walker & Rep. K. Johnson & Rep. Minor-Brown & Sen. Lockman & Sen. Brown
Reps. Baumbach, Bennett, Bentz, Brady, Bush, Carson, Griffith, Heffernan, Jaques, Q. Johnson, Kowalko, Longhurst, Lynn, Matthews, Mitchell, Osienski, Schwartzkopf, Seigfried, Viola, K. Williams; Sens. Ennis, Hansen, McBride, McDowell, Paradee, Poore, Sokola, Sturgeon, Townsend, Walsh, Cloutier

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 350

AN ACT TO AMEND TITLE 11 THE DELAWARE CODE RELATING TO CHOKEHOLDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 607A Aggravated Strangulation; penalty; defenses.

(a) As used in this section:

(1) "Chokehold" means of any of the following:

a. A technique intended to restrict another person's airway, or prevent or restrict the breathing of another person.

b. A technique intended to constrict the flow of blood by applying pressure or force to the carotid artery, the jugular vein, or the side of the neck of another person.

(2) "Law-enforcement officer" means as defined in § 222 of this title.

(b) A person commits the offense of Aggravated Strangulation if all of the following conditions are satisfied:

(1) The person is a law-enforcement officer.

(2) The person knowingly or intentionally uses a chokehold on another person.

(3) The person is acting within the person's official capacity as a law-enforcement officer.

(c) Notwithstanding §§ 462-468 of this title to the contrary, the use of a chokehold is only justifiable when the person reasonably believes that the use of deadly force is necessary to protect the life of a civilian or a law enforcement officer.

(d) Except as provided in paragraph (e) of this section, Aggravated Strangulation is a class D felony.

(e) Aggravated Strangulation is a Class C felony if the person caused serious physical injury or death to the other person while committing the offense.

(f) A person charged under this section shall not limit or preclude any other charge being brought against the person.

SYNOPSIS

This Act creates the crime of Aggravated Strangulation. A person is guilty of Aggravated Strangulation if the person is a law-enforcement officer, and while acting within the person's official capacity as a law-enforcement officer, knowingly or intentionally uses a chokehold on another person. Under this Act, a chokehold is only justifiable when the person reasonably believes deadly force is warranted in order to protect the life of a civilian or law-enforcement officer. Aggravated Strangulation is a Class D felony unless the law-enforcement officer using a chokehold causes serious physical injury or death to another person thereby elevating the crime to a Class C felony. This Act also makes clear that if a person is charged under this section, such a charge shall not preclude or limit the State or any other prosecuting agency from bringing other criminal charges against the person.