



# Allegheny County Council

County of Allegheny  
436 Grant Street  
Pittsburgh, PA 15219  
Phone (412) 350-6490  
Fax (412) 350-6499

## Legislation Text

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An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Allegheny County Code of Ordinances through the creation of a new Division 9, entitled "Conduct," and a new Chapter 910, entitled "Chokeholds and Strangleholds," in order to prohibit the use of certain types of force against individuals within Allegheny County.

**WHEREAS**, strangleholds temporarily cut off blood flow to the brain and are generally employed to render a subject unconscious for a time, while chokeholds are generally employed to incapacitate an individual by restricting their breathing through the application of pressure to the windpipe; and,

**WHEREAS**, more specifically, strangleholds rely upon compression of one or both carotid arteries and/or jugular veins in order to limit blood flow to the subject's brain, causing cerebral ischemia and hypoxic unconsciousness; and

**WHEREAS**, while properly applied strangleholds can result in rapid incapacitation of subjects, often in a matter of 10 to 20 seconds, the potential dangers presented by the improper or extended application of strangleholds have been known and studied for at least decades, *see, e.g.,* Koiwai, EK (March 1987) "Deaths Allegedly Caused by the Use of "Choke-Holds (Shime-waza)," *Journal of Forensic Sciences* 32(2), 412-32; and

**WHEREAS**, chokeholds rely upon the compression of an individual's upper airways (generally the trachea, larynx, and/or laryngopharynx) in order to limit the subject's ability to breathe, and in the process ultimately causing an asphyxia-induced condition of unconsciousness; and

**WHEREAS**, chokeholds typically are regarded as taking a longer period of time (sometimes several minutes) to incapacitate an individual to whom they are applied and require a longer recovery period once released, and also can create a risk of serious injury to the subject's larynx and/or hyoid bone when improperly applied; and

**WHEREAS**, both chokeholds and strangleholds are sometimes employed by law enforcement officers as a means of incapacitating individuals, as demonstrated through recent media coverage, but are also sometimes employed by individuals in the course of physical conflict with each other; and

**WHEREAS**, the potential for physical harm resulting from the improper application of a chokehold was sharply and disturbingly demonstrated by the recent in-custody death of George Floyd by officers of the Minneapolis Police Department; and,

**WHEREAS**, as the high profile cases of Eric Garner, George Floyd, and others at the hands of police officers have shown, chokehold and/or stranglehold techniques can lead to death and/or significant bodily harm to individuals, even when applied by law enforcement personnel who are trained in their application; and

**WHEREAS**, the dangers of chokeholds and strangleholds are also recognized within the law enforcement community, with recent publications noting (1) the significant potential for serious injury resulting from chokeholds (and therefore recommending that they only be used if the subject presents an imminent danger of death or serious bodily injury to another person), and (2) that strangleholds, while generally safer for the individual to whom they are applied, do still present dangers (and therefore recommending that they only be used against actively aggressive subjects, and stressing that any use of force must be reasonable under the circumstances), *see, e.g.*, Schlosser, M., (March 5, 2019), "Unlocking the Confusion Around Chokeholds," [www.policemag.com](http://www.policemag.com); and

**WHEREAS**, as noted by Schlosser: "Proper training includes recognizing unconsciousness, so that chokes are not applied any longer than necessary, especially the air choke. Further, it is vital that officers understand that certain members of the population are at higher risk of incurring injury or death as a result of a chokehold. Such individuals include those with cardiac disorders and younger people whose central nervous systems have not completely developed. Continuing training is necessary in order to ensure that officers are up-to-date with the latest knowledge about chokeholds, and to help them maintain their familiarity with performing them. Such education needs to include the anatomy of the neck, medical issues, necessary precautions, and proper application. Also, it is essential that officers receive training on reviving an assailant who has fallen unconscious. Such skills should be learned from expert trainers, and not just from an article, as both practice and theory are necessary in order to master the safe use of a chokehold. Both the air choke and blood choke require initial and continued training, as it is vital that officers understand possible medical issues, necessary precautions, the anatomy of the neck, and proper application before attempting to perform such techniques."; and

**WHEREAS**, it is obviously impossible for even the most well-trained individual to have instantaneous yet comprehensive knowledge of an individual's medical history merely by looking at them prior to applying a chokehold or stranglehold, and it is therefore generally impossible to understand and competently evaluate the full dimension of the risks presented by applying a chokehold or stranglehold to a given subject without their prior warning and consent; and

**WHEREAS**, it is accordingly the judgment of Council that the use of chokeholds and/or strangleholds presents a clear and present danger to the health and well-being of the County's residents, insofar as both entail potential risks of death or serious bodily injury; and

**WHEREAS**, it is further the judgment of Council that the deleterious impact of employing these techniques is further exacerbated by the difficulty or impossibility of fully and competently evaluating the extent of the dangers imposed prior to their application to a subject without notice or consent;

***The Council of the County of Allegheny hereby enacts as follows:***

***SECTION 1. Incorporation of the Preamble***

The preamble to this Ordinance is hereby incorporated by reference herein.

***SECTION 2. Amendment of the Code***

The Allegheny County Code of Ordinances is hereby amended through the creation of a new Division 9, entitled "Conduct," and a new Chapter 910, entitled "Chokeholds and Strangleholds," and comprised as follows:

## **Chapter 910 Chokeholds and Strangleholds**

### **§910.1 Definitions**

The following words and phrases shall have the meanings delineated herein unless context clearly demonstrates to the contrary:

- A. Stranglehold shall mean any form of carotid artery or jugular vein constriction or restriction, or any other technique applied in an effort to control or disable a subject by applying pressure to the carotid artery, jugular vein, or sides of the neck with the purpose, intent, or effect of controlling a subject's movement and/or rendering a subject unconscious by constricting the flow of blood to and from the brain, regardless of the position or movement of the subject at the time during which the technique is applied.
- B. Chokehold shall mean any form of neck restraint or any technique involving the use of an arm, other body part, or other firm object to attempt to control or disable a subject by applying pressure against the windpipe or the neck with the purpose, intent, or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe, regardless of the position or movement of the subject at the time during which the technique is applied.

### **§910.2. Prohibited Conduct**

Under no circumstances shall any person apply a chokehold or stranglehold as defined herein to any other person within Allegheny County.

### **§910.3. Enforcement and Penalty**

- A. The provisions of this Chapter may be enforced by any municipal or other law enforcement agency operating within the boundaries of Allegheny County.
- B. Upon a finding of a violation of §910.2 or §910.6.A. by a court of competent jurisdiction, an individual shall be guilty of a summary offense, and subject to a fine of not more than \$300 and/or a term of imprisonment not to exceed 90 days.
- C. For the purposes of this Section and subject to the exception(s) delineated within this Chapter, each application of a chokehold or stranglehold in violation of §910.2 and/or failure to satisfy the duty imposed by §910.6.A. shall constitute a separate offense.

### **§910.4. Exception**

The provisions of this Chapter shall not apply to chokeholds or strangleholds performed in the course

of sanctioned martial arts activities, provided that all participants in such activities receive prior notice of the possible use of chokeholds during the activity and information regarding the potential hazards of chokeholds and strangleholds, and provide their written consent to participation under such circumstances prior to participating.

### **§910.5. Private Right of Action**

Any individual upon whom a stranglehold or chokehold is used by an individual acting in the course of his or her employment by Allegheny County shall have a right of action against the County for injuries proximately caused by violations of §910.2 that occur after the effective date of this ordinance.

### **§910.6. Duty to Report**

- A. Any individual employed by Allegheny County shall have a duty to report any and all violations of this Chapter to appropriate law enforcement and/or supervisory staff when such violation(s) are directly observed during the course of the individual's employment.
- B. Upon a finding by a court of competent jurisdiction that any County employee has failed to satisfy the duty imposed by this Section, such employee shall be guilty of a summary offense and subject to the penalties established pursuant to §910.3.
- C. Nothing contained herein shall be read or otherwise interpreted to impose a duty to report upon any individual not employed by Allegheny County, or upon any County employee during non-working hours or when conduct is observed when they are otherwise not acting within the scope of their employment.

### ***SECTION 3. Effective Date***

The provisions of this Ordinance shall become effective immediately upon final approval.

***SECTION 4. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.***

***SECTION 5. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.***