

File No. 210402

Committee Item No. _____

Board Item No. 31

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: April 20, 2021

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OTHER

- Assembly Bill No. 490 - 3/18/21 _____
- CSAC/LCC Position _____
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Prepared by: Lisa Lew

Date: April 16, 2021

Prepared by: _____

Date: _____

1 [Supporting California State Assembly Bill No. 490 - The Angelo Quinto Act of 2021]

2

3 **Resolution supporting California State Assembly Bill No. 490, “The Angelo Quinto Act**
4 **of 2021,” authored by Assembly Member Mike Gibson, to prohibit law enforcement**
5 **from authorizing techniques or transport methods that involve a substantial risk of**
6 **positional asphyxia.**

7

8 WHEREAS, On December 23, 2020, Antioch police officers restrained Angelo Quinto,
9 a Navy veteran from Northern California, by kneeling on his neck for over four minutes during
10 which time Mr. Quinto lost consciousness. Angelo Quinto was transported to a nearby
11 hospital, but never regained consciousness and died three days later; and

12 WHEREAS, On May 25, 2020, Derek Chauvin, a police officer with the Minneapolis
13 Police Department, knelt on George Floyd's neck for 9 minutes and 29 seconds after Mr.
14 Floyd was handcuffed and lying face down. Immediately after, Mr. Floyd entered cardiac
15 arrest and lost his life; and

16 WHEREAS, These are just two examples out of the countless instances of police
17 officers and other members of law enforcement dangerously and recklessly restraining
18 individuals with no regard for their safety or wellbeing; and

19 WHEREAS, The circumstances of Angelo Quinto’s death are a stark parallel to George
20 Floyd’s, which both exposed gray areas and loopholes in use-of-force policies; and

21 WHEREAS, As elected officials, it is our responsibility to take a hard look at our law
22 enforcement’s use of force policies, not just locally but at a state and federal level; and

23 WHEREAS, Existing California state law authorizes a peace officer to make an arrest
24 and use reasonable force to affect the arrest, to prevent escape, or to overcome resistance;
25 and

1 WHEREAS, Existing California state law prohibits a law enforcement agency from
2 authorizing the use of a carotid restraint or a choke hold, but does not specifically prohibit
3 positional asphyxia; and

4 WHEREAS, Positional asphyxia means situating a person in a manner that
5 compresses their airway and reduces the likelihood that they will be able to breathe normally;
6 and

7 WHEREAS, Positional asphyxia includes, without limitation, the use of any physical
8 restraint technique, device, or position that causes a person’s respiratory airway to be
9 compressed or impairs the person’s breathing or respiratory capacity, including any technique
10 in which pressure or body weight is unreasonably applied against a restrained person’s neck,
11 torso, or back, or positioning a restrained person in a prone or supine position without proper
12 monitoring for signs of asphyxia; and

13 WHEREAS, In-custody death is one of the great tragedies in law enforcement, and one
14 of the most common causes is positional asphyxia; and

15 WHEREAS, Assembly Member Gibson’s bill, Assembly Bill No. 490 (AB 490) will
16 create a uniform statewide policy to prohibit a law enforcement agency from authorizing
17 techniques or transport methods that involve a substantial risk of positional asphyxia; and

18 WHEREAS, AB 490 is supported by the ACLU of California, the National Action
19 Network, and the Consumer Attorneys of California; now, therefore, be it

20 RESOLVED, That the San Francisco Board of Supervisors hereby supports California
21 Assembly Bill No. 490, “The Angelo Quinto Act of 2021,” and urges the California State
22 Legislature to pass this bill in order to keep our communities safe from police violence; and,
23 be it

24 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
25

1 Board to transmit a copy of this Resolution to the California Senate President pro Tempore
2 Toni Atkins, California Assembly Speaker Anthony Rendon, Governor Gavin Newsom, and
3 the Bill's primary sponsor, State Assembly Member Mike Gipson.

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AMENDED IN ASSEMBLY MARCH 18, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 490

Introduced by Assembly Member Gipson

February 8, 2021

An act to amend Section ~~637.3 of the Penal Code~~, 7286.5 of the Government Code, relating to ~~privacy~~: law enforcement agency policies.

LEGISLATIVE COUNSEL'S DIGEST

AB 490, as amended, Gipson. ~~Privacy: recording systems. Law enforcement agency policies: arrests: positional asphyxia.~~

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified. Under existing law, an arrest is made by the actual restraint of the person or by submission to the custody of the arresting officer. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Existing law requires law enforcement agencies to maintain a policy on the use of force, as specified. Existing law requires the Commission on Peace Officer Standards and Training to implement courses of instruction for the regular and periodic training of law enforcement officers in the use of force.

Existing law prohibits a law enforcement agency from authorizing the use of a carotid restraint or a choke hold, as defined.

This bill would additionally prohibit a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia, as defined.

By requiring local agencies to amend use of force policies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law prohibits a person or entity from using a system that examines or records the voice prints or other voice stress patterns of another person to determine the truth or falsity of statements without the express written consent of the person who is being recorded, as specified.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7286.5 of the Government Code is
2 amended to read:

3 7286.5. (a) (1) A law enforcement agency shall not authorize
4 the use of a carotid restraint or choke hold by any peace officer
5 employed by that agency.

6 (2) A law enforcement agency shall not authorize techniques
7 or transport methods that involve a substantial risk of positional
8 asphyxia.

9 (b) As used in this section, the following terms are defined as
10 follows:

11 (1) “Carotid restraint” means a vascular neck restraint or any
12 similar restraint, hold, or other defensive tactic in which pressure
13 is applied to the sides of a person’s neck that involves a substantial
14 risk of restricting blood flow and may render the person
15 unconscious in order to subdue or control the person.

16 (2) “Choke hold” means any defensive tactic or force option in
17 which direct pressure is applied to a person’s trachea or windpipe.

18 (3) “Law enforcement agency” means any agency, department,
19 or other entity of the state or any political subdivision thereof, that

1 employs any peace officer described in Chapter 4.5 (commencing
2 with Section 830) of Title 3 of Part 2 of the Penal Code.

3 (4) *“Positional asphyxia” means situating a person in a manner*
4 *that compresses their airway and reduces the likelihood that they*
5 *will be able to breathe normally. This includes, without limitation,*
6 *the use of any physical restraint technique, device, or position that*
7 *causes a person’s respiratory airway to be compressed or impairs*
8 *the person’s breathing or respiratory capacity, including any*
9 *technique in which pressure or body weight is unreasonably*
10 *applied against a restrained person’s neck, torso, or back, or*
11 *positioning a restrained person in a prone or supine position*
12 *without proper monitoring for signs of asphyxia.*

13 *SEC. 2. If the Commission on State Mandates determines that*
14 *this act contains costs mandated by the state, reimbursement to*
15 *local agencies and school districts for those costs shall be made*
16 *pursuant to Part 7 (commencing with Section 17500) of Division*
17 *4 of Title 2 of the Government Code.*

18 ~~SECTION 1. Section 637.3 of the Penal Code is amended to~~
19 ~~read:~~

20 ~~637.3. (a) A person or entity in this state shall not use a system~~
21 ~~that examines or records in any manner voice prints or other voice~~
22 ~~stress patterns of another person to determine the truth or falsity~~
23 ~~of statements made by the other person without their express~~
24 ~~written consent given in advance of the examination or recordation.~~

25 ~~(b) This section shall not apply to a peace officer, as defined in~~
26 ~~Section 830, while the peace officer is carrying out their official~~
27 ~~duties.~~

28 ~~(c) A person who has been injured by a violator of this section~~
29 ~~may bring an action against the violator for their actual damages~~
30 ~~or one thousand dollars (\$1,000), whichever is greater.~~

From: [Gee, Natalie \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Walton, Shamann \(BOS\)](#); [Fregosi, Ian \(BOS\)](#)
Subject: Walton - Introduction - Resolution in Support of AB 490
Date: Tuesday, April 13, 2021 4:49:29 PM
Attachments: [Walton - Reso - AB 490.doc](#)
[Walton - Introduction Form - Supporting AB 490.pdf](#)
[AB490.pdf](#)

Good afternoon Clerk Team,

Attached is a President Walton's introduction form and resolution in support of CA Assembly Bill No. 490 – The Angelo Quinto Act of 2021. I've also attached a copy of the bill.

The California State Association of Counties and the League of California Cities have both taken a watch position on the bill.

Confirming that this resolution pertains to matters that are routine, not contentious in nature, and of no special interest.

I've CC'ed President Walton to confirm his signature.

Thank you,

Natalie Gee 朱凱勤, Chief of Staff
Supervisor Shamann Walton, District 10
President, Board of Supervisors
1 Dr. Carlton B. Goodlett Pl, San Francisco | Room 282
Direct: 415.554.7672 | **Office:** 415.554.7670

*I am working from home due to the **COVID-19 Stay Safer At Home order** and will be most responsive by email.*

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Walton, Chan

Subject:

Supporting Assembly Bill No. 490 – The Angelo Quinto Act of 2021

The text is listed:

Resolution supporting California State Assembly Bill No. 490, "The Angelo Quinto Act of 2021," authored by Assemblymember Mike Gibson, to prohibit law enforcement from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia.

Signature of Sponsoring Supervisor: /s/ Shamann Walton

For Clerk's Use Only