
SENATE BILL 5418

State of Washington

62nd Legislature

2011 Regular Session

By Senators Becker, Benton, Stevens, Sheldon, Schoesler, Delvin, Morton, and Honeyford

Read first time 01/25/11. Referred to Committee on Judiciary.

1 AN ACT Relating to the use of force in self-defense; amending RCW
2 9A.16.020 and 9A.16.050; and adding new sections to chapter 9A.16 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.16.020 and 1986 c 149 s 2 are each amended to read
5 as follows:

6 The use, attempt, or offer to use force upon or toward the person
7 of another is not unlawful in the following cases:

8 (1) Whenever necessarily used by a public officer in the
9 performance of a legal duty, or a person assisting the officer and
10 acting under the officer's direction;

11 (2) Whenever necessarily used by a person arresting one who has
12 committed a felony and delivering him or her to a public officer
13 competent to receive him or her into custody;

14 (3) Whenever used by a party about to be injured, or by another
15 lawfully aiding him or her, in preventing or attempting to prevent an
16 offense against his or her person, or a malicious trespass, or other
17 malicious interference with real or personal property lawfully in his
18 or her possession, in case the force is not more than is necessary or
19 is permitted pursuant to RCW 9A.16.050;

1 (4) Whenever reasonably used by a person to detain someone who
2 enters or remains unlawfully in a building or on real property lawfully
3 in the possession of such person, so long as such detention is
4 reasonable in duration and manner to investigate the reason for the
5 detained person's presence on the premises, and so long as the premises
6 in question did not reasonably appear to be intended to be open to
7 members of the public;

8 (5) Whenever used by a carrier of passengers or the carrier's
9 authorized agent or servant, or other person assisting them at their
10 request in expelling from a carriage, railway car, vessel, or other
11 vehicle, a passenger who refuses to obey a lawful and reasonable
12 regulation prescribed for the conduct of passengers, if such vehicle
13 has first been stopped and the force used is not more than is necessary
14 to expel the offender with reasonable regard to the offender's personal
15 safety;

16 (6) Whenever used by any person to prevent a mentally ill, mentally
17 incompetent, or mentally disabled person from committing an act
18 dangerous to any person, or in enforcing necessary restraint for the
19 protection or restoration to health of the person, during such period
20 only as is necessary to obtain legal authority for the restraint or
21 custody of the person.

22 **Sec. 2.** RCW 9A.16.050 and 1975 1st ex.s. c 260 s 9A.16.050 are
23 each amended to read as follows:

24 (1) Homicide is also justifiable when committed (~~(either)~~):

25 (~~(1)~~) (a) In the lawful defense of the slayer, or his or her
26 husband, wife, parent, child, brother, or sister, or of any other
27 person in his or her presence or company, when there is reasonable
28 ground to apprehend a design on the part of the person slain to commit
29 a felony or to do some great personal injury to the slayer or to any
30 such person, and there is imminent danger of such design being
31 accomplished; (~~(or~~

32 ~~(2)~~) (b) In the actual resistance of an attempt to commit a felony
33 upon the slayer, in his or her presence, or upon or in a dwelling,
34 (~~(or)~~) residence, other place of abode, or occupied vehicle in which he
35 or she is;

36 (c) In the event the slayer had a reasonable fear of imminent peril

1 of death or great bodily harm to himself, herself, or another person in
2 a dwelling, residence, other place of abode, or occupied vehicle.

3 (2) Under subsection (1) of this section, a person does not have a
4 duty to retreat if the person is in a place where he or she has a right
5 to be.

6 NEW SECTION. Sec. 3. A new section is added to chapter 9A.16 RCW
7 to read as follows:

8 (1) A person is presumed to have held a reasonable fear of imminent
9 peril of death or great bodily harm to himself or herself or another
10 person when using deadly force pursuant to RCW 9A.16.050(1)(c) if:

11 (a) The person against whom the deadly force was used was in the
12 process of unlawfully and forcefully entering or had unlawfully and
13 forcibly entered a dwelling, residence, other place of abode, or
14 occupied vehicle, or if that person had removed or was attempting to
15 remove another against that person's will from a dwelling, residence,
16 other place of abode, or occupied vehicle; and

17 (b) The person who uses deadly force knew or had reason to believe
18 that an unlawful and forcible entry or unlawful and forcible act was
19 occurring or had occurred.

20 (2) The presumption set forth in subsection (1) of this section
21 does not apply if:

22 (a) The person against whom the deadly force is used has the right
23 to be in or is a lawful resident of the dwelling, residence, other
24 place of abode, or vehicle, such as an owner, lessee, or titleholder,
25 and there is not an injunction for protection from domestic violence or
26 a written pretrial supervision order of no contact against that person;

27 (b) The person sought to be removed is a child or grandchild, or is
28 otherwise in the lawful custody or under the lawful guardianship of,
29 the person against whom the deadly force is used;

30 (c) The person who uses deadly force is engaged in an unlawful
31 activity or is using the dwelling, residence, other place of abode, or
32 vehicle to further an unlawful activity; or

33 (d) The person against whom the deadly force is used is a general
34 or limited authority Washington peace officer, as defined in RCW
35 10.93.020, who enters or attempts to enter a dwelling, residence, other
36 place of abode, or vehicle in the performance of his or her official
37 duties and the officer identifies himself or herself in accordance with

1 any applicable law or the person using force knew or reasonably should
2 have known that the person entering or attempting to enter was a law
3 enforcement officer.

4 (3) A person who unlawfully and by force enters or attempts to
5 enter a person's dwelling, residence, other place of abode, or occupied
6 vehicle is presumed to be doing so with the intent to commit an
7 unlawful act involving force or violence.

8 (4) As used in this section:

9 (a) "Dwelling" means any building or structure, including any
10 attached porch, though moveable or temporary, or a portion thereof,
11 which is used or ordinarily used by a person for lodging.

12 (b) "Residence" means a dwelling in which a person resides either
13 temporarily or permanently or is visiting as an invited guest.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.16 RCW
15 to read as follows:

16 (1) A person who uses force as permitted in RCW 9A.16.020 or
17 9A.16.050, is justified in using such force and is immune from criminal
18 prosecution for the use of such force and from civil liability for
19 injuries or death resulting from the use of such force, unless the
20 person against whom force was used was a general or limited authority
21 Washington peace officer, as defined in RCW 10.93.020, who was acting
22 in the performance of his or her official duties and the officer
23 identifies himself or herself in accordance with any applicable law or
24 the person using force knew or reasonably should have known that the
25 person was a law enforcement officer. As used in this subsection,
26 "criminal prosecution" includes arresting, detaining in custody, and
27 charging or prosecuting the defendant.

28 (2) A law enforcement agency may use standard procedures for
29 investigating the use of force as described in subsection (1) of this
30 section, but the agency may not arrest the person for using force
31 unless it determines that there is probable cause that the force that
32 was used was unlawful.

33 (3) The court shall award reasonable attorneys' fees, court costs,
34 compensation for loss of income, and all expenses incurred by the
35 defendant of any civil action brought by a plaintiff if the court finds

1 that the defendant is immune from prosecution as provided in subsection
2 (1) of this section.

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