
HOUSE BILL 2907

State of Washington

64th Legislature

2016 Regular Session

By Representatives Moscoso, Appleton, Walkinshaw, Pettigrew, Reykdal, S. Hunt, Tharinger, Stanford, Gregerson, Sawyer, Frame, and Santos

Read first time 01/27/16. Referred to Committee on Public Safety.

1 AN ACT Relating to the use of deadly force by a public officer or
2 peace officer; amending RCW 9A.16.040; creating a new section; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the invaluable
6 contributions of law enforcement officers, who risk their own lives
7 every day to protect our families and communities. We hold law
8 enforcement to a high standard in their positions of public trust and
9 as the guardians in our communities, and the legislature applauds
10 their efforts to show respect and compassion to all community
11 members.

12 The legislature finds that the current law on deadly force in
13 Washington provides no clarity for law enforcement on when deadly
14 force is justifiable. It is the intent of the legislature to align
15 our deadly force law with other statutes in our criminal laws and
16 analogous laws in other states, while giving law enforcement clear
17 guidance on when use of deadly force is justifiable and when it is
18 not. Such clear guidance will benefit both law enforcement officers
19 and the communities they protect, and will result in a law that
20 upholds the role of law enforcement to maintain public safety and
21 foster accountability and public trust.

1 **Sec. 2.** RCW 9A.16.040 and 1986 c 209 s 2 are each amended to
2 read as follows:

3 (1) (~~Homicide or~~) The use of deadly force by a public officer,
4 peace officer, or person aiding is justifiable (~~in the following~~
5 ~~eases~~) when:

6 (a) (~~When a public~~) The officer reasonably believes that there
7 is an imminent threat of death or serious bodily injury to the
8 officer or to a third party and that the deadly force is necessary to
9 prevent it; and

10 (b)(i) The officer is acting in obedience to the judgment of a
11 competent court; or

12 (~~(b) When necessarily used by a peace~~) (ii) The officer is
13 using the deadly force to overcome actual resistance to the execution
14 of the legal process, mandate, or order of a court or officer, or in
15 the discharge of a legal duty(~~(-)~~); or

16 (~~(c) When necessarily~~) (iii) The deadly force is used by a
17 peace officer or person acting under the officer's command and in the
18 officer's aid:

19 (~~(i)~~) (A) To arrest or apprehend a person who the officer
20 reasonably believes has committed, has attempted to commit, is
21 committing, or is attempting to commit a felony; or

22 (~~(ii)~~) (B) To prevent the escape of a person from a federal or
23 state correctional facility or in retaking a person who escapes from
24 such a facility; or

25 (~~(iii)~~) (C) To prevent the escape of a person from a county or
26 city jail or holding facility (~~(if the person has been arrested for,~~
27 ~~charged with, or convicted of a felony)~~); or

28 (~~(iv)~~) (D) To lawfully suppress a riot (~~(if the actor or~~
29 ~~another participant is armed with a deadly weapon)~~).

30 (2) (~~In considering whether to use deadly force under subsection~~
31 ~~(1)(c) of this section, to arrest or apprehend any person for the~~
32 ~~commission of any crime, the peace officer must have probable cause~~
33 ~~to believe that the suspect, if not apprehended, poses a threat of~~
34 ~~serious physical harm to the officer or a threat of serious physical~~
35 ~~harm to others. Among the circumstances which may be considered by~~
36 ~~peace officers as a "threat of serious physical harm" are the~~
37 ~~following:~~

38 ~~(a) The suspect threatens a peace officer with a weapon or~~
39 ~~displays a weapon in a manner that could reasonably be construed as~~
40 ~~threatening; or~~

1 ~~(b) There is probable cause to believe that the suspect has~~
2 ~~committed any crime involving the infliction or threatened infliction~~
3 ~~of serious physical harm.~~

4 ~~Under these circumstances deadly force may also be used if~~
5 ~~necessary to prevent escape from the officer, where, if feasible,~~
6 ~~some warning is given.~~

7 ~~(3) A public officer or peace officer shall not be held~~
8 ~~criminally liable for using deadly force without malice and with a~~
9 ~~good faith belief that such act is justifiable pursuant to this~~
10 ~~section.~~

11 ~~(4))~~ This section shall not be construed as:

12 (a) Affecting the permissible use of force by a person acting
13 under the authority of RCW 9A.16.020 or 9A.16.050; or

14 (b) Preventing a law enforcement agency from adopting standards
15 pertaining to its use of deadly force that are more restrictive than
16 this section.

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