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**HOUSE BILL 2776**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Klippert and Hayes

AN ACT Relating to clarifying the authority of officers to restrain children when necessary; and amending RCW 9A.16.020 and 9A.16.100.

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

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

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

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

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

(3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary;

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

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

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

(7) Whenever reasonably used by a person acting in his or her official capacity as a law enforcement officer, school resource officer, or school security officer to restrain a person under the age of eighteen if doing so is necessary to prevent the person from endangering the physical safety of himself or herself, the officer, or another person, or from damaging real or personal property.

**Sec.**  RCW 9A.16.100 and 1986 c 149 s 1 are each amended to read as follows:

(1) It is the policy of this state to protect children from assault and abuse and to encourage parents, teachers, and their authorized agents to use methods of correction and restraint of children that are not dangerous to the children. However, the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

(2) The following actions are presumed unreasonable when used to correct or restrain a child: ((~~(1)~~)) (a) Throwing, kicking, burning, or cutting a child; ((~~(2)~~)) (b) striking a child with a closed fist; ((~~(3)~~)) (c) shaking a child under age three; ((~~(4)~~)) (d) interfering with a child's breathing; ((~~(5)~~)) (e) threatening a child with a deadly weapon; or ((~~(6)~~)) (f) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size, and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive.

(3) This section does not prohibit or otherwise modify other lawful uses of force authorized under RCW 9A.16.020.

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