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**HOUSE BILL 2907**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**--- END ---**