
HOUSE BILL 1324

State of Washington

64th Legislature

2015 Regular Session

By Representatives Shea, Scott, Young, G. Hunt, Taylor, Magendanz, Condotta, Wilson, Pike, and McCaslin

Read first time 01/19/15. Referred to Committee on Judiciary.

1 AN ACT Relating to the protection of persons and property;
2 amending RCW 9A.16.050 and 9A.16.020; adding new sections to chapter
3 9A.16 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the following:

6 (1) The United States Constitution, Amendment II (Bill of
7 Rights), guarantees that, "A well regulated militia being necessary
8 to the security of a free state, the right of the people to keep and
9 bear arms, shall not be infringed."

10 (2) The Washington State Constitution, Article I (Declaration of
11 Rights), Section 24 (Right to Bear Arms), guarantees that, "The right
12 of the individual citizen to bear arms in defense of himself, or the
13 state, shall not be impaired..."

14 (3) The castle doctrine is a common-law doctrine of ancient
15 origins that declares that a person's home is his or her castle.

16 (4) Persons residing in or visiting within this state have a
17 right to expect to remain unmolested by criminals within their homes
18 and vehicles.

19 (5) Persons should not be required to surrender their personal
20 safety and well-being to criminals, nor should such persons be forced
21 to retreat in the face of criminal intrusion or attack.

1 (6) A person who is not engaged in an unlawful activity and who
2 is attacked in a place where he or she has a right to be should have
3 no duty to retreat and should have the right to stand his or her
4 ground and meet force with defensive force, including deadly force in
5 certain circumstances.

6 (7) It is proper for law-abiding persons to protect themselves,
7 their families, and other innocent persons from intruders and
8 attackers without fear of prosecution or civil action for acting in
9 the lawful defense of themselves and others.

10 **Sec. 2.** RCW 9A.16.050 and 2011 c 336 s 354 are each amended to
11 read as follows:

12 ~~((Homicide is also justifiable when committed either:~~

13 ~~(1) In the lawful defense of the slayer, or his or her husband,~~
14 ~~wife, parent, child, brother, or sister, or of any other person in~~
15 ~~his or her presence or company, when there is reasonable ground to~~
16 ~~apprehend a design on the part of the person slain to commit a felony~~
17 ~~or to do some great personal injury to the slayer or to any such~~
18 ~~person, and there is imminent danger of such design being~~
19 ~~accomplished; or~~

20 ~~(2) In the actual resistance of an attempt to commit a felony~~
21 ~~upon the slayer, in his or her presence, or upon or in a dwelling, or~~
22 ~~other place of abode, in which he or she is.))~~ (1) A person who is
23 not engaged in an unlawful activity and is attacked in a place where
24 he or she reasonably believes he or she has a right to be has no duty
25 to retreat and has the right to stand his or her ground and meet
26 force with defensive force, including deadly force.

27 (2) A person is justified in the use of defensive force, except
28 deadly force, against another person when and to the extent that the
29 person reasonably believes that such force is necessary to defend
30 himself or herself or another against the other person's imminent use
31 of unlawful force against himself or herself or another.

32 (3) A person is justified in the use of deadly force if:

33 (a) He or she reasonably believes that such force is necessary to
34 prevent imminent death or great bodily harm to himself or herself or
35 another or to prevent the imminent commission of a felony involving
36 force or violence against himself or herself or another; or

37 (b) Under those circumstances permitted under RCW 9A.16.040.

38 (4) A person who unlawfully and by force enters or attempts to
39 enter a person's dwelling, residence, or occupied vehicle is presumed

1 to be doing so with the intent to commit an unlawful act involving
2 force or violence.

3 (5) A person is presumed to have held a reasonable fear of
4 imminent peril of death or great bodily harm to himself or herself or
5 another when using defensive force that is intended or likely to
6 cause death or great bodily harm to another person if:

7 (a) The person against whom the defensive force was used was in
8 the process of unlawfully and forcibly entering or had unlawfully and
9 forcibly entered a dwelling, residence, or occupied vehicle or if
10 that person was unlawfully and forcibly attempting to remove or had
11 unlawfully and forcibly removed another person against that person's
12 will from the dwelling, residence, or occupied vehicle; and

13 (b) The person who used defensive force knew or reasonably
14 believed that an unlawful and forcible entry or unlawful and forcible
15 removal was occurring or had occurred.

16 (6) The presumption set forth in subsection (5) of this section
17 does not apply if at the time defensive force was used:

18 (a) The person who used defensive force was engaged in an
19 unlawful activity or was using the dwelling, residence, or occupied
20 vehicle to further an unlawful activity; or

21 (b) The person against whom the defensive force was used had the
22 right to be in or was a lawful resident of the dwelling, residence,
23 or vehicle, such as an owner, lessee, or title holder, and there was
24 no relevant protection order in effect against the person; or

25 (c) The person sought to be removed was a child or grandchild or
26 other person otherwise in the lawful custody or under the lawful
27 guardianship of the person against whom the defensive force was used;
28 or

29 (d) The person against whom the defensive force was used was a
30 peace officer who had entered or had attempted to enter a dwelling,
31 residence, or vehicle in the performance of his or her official
32 duties and the officer had identified himself or herself in
33 accordance with any applicable law or the person using defensive
34 force knew or reasonably should have known that the person who had
35 entered or had attempted to enter was a peace officer.

36 (7) As used in this section, "residence" means a dwelling in
37 which a person resides either temporarily or permanently or is
38 visiting as an invited guest.

1 NEW SECTION. **Sec. 3.** A new section is added to
2 chapter 9A.16 RCW to read as follows:

3 A person who is not engaged in an unlawful activity and is in a
4 place where he or she reasonably believes he or she has a right to be
5 is justified in the use of defensive force, except deadly force,
6 against another person when and to the extent that the person, or a
7 person lawfully aiding him or her, reasonably believes that such
8 force is necessary to prevent or terminate the other person's
9 trespass on or other tortious or criminal act against either real
10 property or personal property lawfully in his or her possession or in
11 the possession of another person who is a member of his or her
12 immediate family or household or in the possession of a person whose
13 property he or she has a legal duty to protect. However, a person is
14 justified in the use of deadly force if he or she reasonably believes
15 that such force is necessary to prevent the imminent commission of a
16 felony involving force or violence against himself or herself or
17 another, in which case the person has no duty to retreat and has the
18 right to stand his or her ground.

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

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

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

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

29 (3) Whenever used (~~by a party about to be injured, or by another~~
30 ~~lawfully aiding him or her, in preventing or attempting to prevent an~~
31 ~~offense against his or her person, or a malicious trespass, or other~~
32 ~~malicious interference with real or personal property lawfully in his~~
33 ~~or her possession, in case the force is not more than is necessary))
34 in accordance with RCW 9A.16.050 or section 3 of this act;~~

35 (4) Whenever reasonably used by a person to detain someone who
36 enters or remains unlawfully in a building or on real property
37 lawfully in the possession of such person, so long as such detention
38 is reasonable in duration and manner to investigate the reason for
39 the detained person's presence on the premises, and so long as the

1 premises in question did not reasonably appear to be intended to be
2 open to members of the public;

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

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

17 NEW SECTION. **Sec. 5.** A new section is added to
18 chapter 9A.16 RCW to read as follows:

19 (1) A person who uses defensive force as permitted in RCW
20 9A.16.050 or section 3 of this act is justified in using such force
21 and is immune from criminal prosecution and civil action for the use
22 of such force, unless the person against whom force was used was a
23 peace officer who was acting in the performance of his or her
24 official duties and the officer had identified himself or herself in
25 accordance with any applicable law or the person using force knew or
26 reasonably should have known that the person was a peace officer. As
27 used in this subsection, "criminal prosecution" includes arresting,
28 detaining in custody, and charging or prosecuting the defendant.

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

34 (3) The court shall award reasonable costs, including loss of
35 time, legal fees incurred, and other expenses involved in his or her
36 defense, incurred by the defendant in defense of a civil action
37 brought by a plaintiff if the court finds that the defendant is

1 immune from prosecution as provided in subsection (1) of this
2 section.

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