**1475 AMS HASE S2608.1 - NOT FOR FLOOR USE**

**HB 1475** - S AMD **240**

By Senator Hasegawa

**NOT ADOPTED 04/11/2017**

On page 1, after line 18, insert the following:

"**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 is justifiable in the following cases:

(a) When a public officer is acting in obedience to the judgment of a competent court; ((~~or~~))

(b) When necessarily used by a peace officer 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 used by a peace officer or person acting under the officer's command and in the officer's aid:

(i) 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;

(ii) 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) 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) 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. For purposes of this section, "good faith" is whether a reasonable peace officer, relying upon the facts and circumstances known by the officer at the time of the incident, would have used deadly force.

(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."

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On page 1, line 2 of the title, after "officers;" insert "amending RCW 9A.16.040;"

EFFECT: Modifies the standard for use of deadly force of a public or peace officer by removing lack of malice as an element of justifiable homicide and defining good faith.