

HB 1475 - S AMD 240  
By Senator Hasegawa

NOT ADOPTED 04/11/2017

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

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

4 (1) Homicide or the use of deadly force is justifiable in the  
5 following cases:

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

8 (b) When necessarily used by a peace officer to overcome actual  
9 resistance to the execution of the legal process, mandate, or order  
10 of a court or officer, or in the discharge of a legal duty(~~(-)~~); or

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

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

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

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

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

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

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

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

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

10 (3) A public officer or peace officer shall not be held  
11 criminally liable for using deadly force (~~(without malice and)~~) with  
12 a good faith belief that such act is justifiable pursuant to this  
13 section. For purposes of this section, "good faith" is whether a  
14 reasonable peace officer, relying upon the facts and circumstances  
15 known by the officer at the time of the incident, would have used  
16 deadly force.

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

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

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

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23 On page 1, line 2 of the title, after "officers;" insert  
24 "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.

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