

CERTIFICATION OF ENROLLMENT

INITIATIVE 940

Chapter 11, Laws of 2018

65th Legislature
2018 Regular Session

LAW ENFORCEMENT—DEADLY FORCE—TRAINING

EFFECTIVE DATE: June 7, 2018

Passed by the House March 8, 2018
Yeas 55 Nays 43

Frank Chopp

Speaker of the House of Representatives

Passed by the Senate March 8, 2018
Yeas 25 Nays 24

CYRUS HABIB

President of the Senate

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **INITIATIVE 940** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **INITIATIVE 940** as passed by the Senate and the House of Representatives on the dates hereon set forth.

FILED

March 8, 2018

BRAD HENDRICKSON

Secretary

**Secretary of State
State of Washington**

INITIATIVE 940

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By People of the State of Washington

1 AN ACT Relating to law enforcement; amending RCW 9A.16.040;
2 adding new sections to chapter 43.101 RCW; adding new sections to
3 chapter 36.28A RCW; and creating new sections.

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

5 **PART I**
6 **TITLE AND INTENT**

7 NEW SECTION. **Sec. 1.** This act may be known and cited as the law
8 enforcement training and community safety act.

9 NEW SECTION. **Sec. 2.** The intent of the people in enacting this
10 act is to make our communities safer. This is accomplished by
11 requiring law enforcement officers to obtain violence de-escalation
12 and mental health training, so that officers will have greater skills
13 to resolve conflicts without the use of physical or deadly force. Law
14 enforcement officers will receive first aid training and be required
15 to render first aid, which will save lives and be a positive point of
16 contact between law enforcement officers and community members to
17 increase trust and reduce conflicts. Finally, the initiative adopts a
18 "good faith" standard for officer criminal liability in those
19 exceptional circumstances where deadly force is used, so that

1 officers using deadly force in carrying out their duties in good
2 faith will not face prosecution.

3 **PART II**
4 **REQUIRING LAW ENFORCEMENT OFFICERS TO RECEIVE VIOLENCE DE-ESCALATION**
5 **TRAINING**

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.101
7 RCW to read as follows:

8 (1) Beginning one year after the effective date of this section,
9 all law enforcement officers in the state of Washington must receive
10 violence de-escalation training. Law enforcement officers beginning
11 employment after the effective date of this section must successfully
12 complete such training within the first fifteen months of employment.
13 The commission shall set the date by which other law enforcement
14 officers must successfully complete such training.

15 (2) All law enforcement officers shall periodically receive
16 continuing violence de-escalation training to practice their skills,
17 update their knowledge and training, and learn about new legal
18 requirements and violence de-escalation strategies.

19 (3) The commission shall set training requirements through the
20 procedures in section 5 of this act.

21 **PART III**
22 **REQUIRING LAW ENFORCEMENT OFFICERS TO RECEIVE MENTAL HEALTH TRAINING**

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.101
24 RCW to read as follows:

25 (1) Beginning one year after the effective date of this section,
26 all law enforcement officers in the state of Washington must receive
27 mental health training. Law enforcement officers beginning employment
28 after the effective date of this section must successfully complete
29 such training within the first fifteen months of employment. The
30 commission shall set the date by which other law enforcement officers
31 must successfully complete such training.

32 (2) All law enforcement officers shall periodically receive
33 continuing mental health training to update their knowledge about
34 mental health issues and associated legal requirements, and to update
35 and practice skills for interacting with people with mental health
36 issues.

1 (3) The commission shall set training requirements through the
2 procedures in section 5 of this act.

3 **PART IV**

4 **TRAINING REQUIREMENTS SHALL BE SET IN CONSULTATION WITH LAW**
5 **ENFORCEMENT AND COMMUNITY STAKEHOLDERS**

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101
7 RCW to read as follows:

8 (1) Within six months after the effective date of this section,
9 the commission must consult with law enforcement agencies and
10 community stakeholders and adopt rules for carrying out the training
11 requirements of sections 3 and 4 of this act. Such rules must, at a
12 minimum:

13 (a) Adopt training hour requirements and curriculum for initial
14 violence de-escalation trainings required by this act;

15 (b) Adopt training hour requirements and curriculum for initial
16 mental health trainings required by this act, which may include all
17 or part of the mental health training curricula established under RCW
18 43.101.227 and 43.101.427;

19 (c) Adopt training hour requirements and curricula for continuing
20 trainings required by this act;

21 (d) Establish means by which law enforcement officers will
22 receive trainings required by this act; and

23 (e) Require compliance with this act's training requirements as a
24 condition of maintaining certification.

25 (2) In developing curricula, the commission shall consider
26 inclusion of the following:

27 (a) De-escalation in patrol tactics and interpersonal
28 communication training, including tactical methods that use time,
29 distance, cover, and concealment, to avoid escalating situations that
30 lead to violence;

31 (b) Alternatives to jail booking, arrest, or citation in
32 situations where appropriate;

33 (c) Implicit and explicit bias, cultural competency, and the
34 historical intersection of race and policing;

35 (d) Skills including de-escalation techniques to effectively,
36 safely, and respectfully interact with people with disabilities
37 and/or behavioral health issues;

38 (e) "Shoot/don't shoot" scenario training;

1 (f) Alternatives to the use of physical or deadly force so that
2 deadly force is used only when unavoidable and as a last resort;

3 (g) Mental health and policing, including bias and stigma; and

4 (h) Using public service, including rendering of first aid, to
5 provide a positive point of contact between law enforcement officers
6 and community members to increase trust and reduce conflicts.

7 (3) The initial violence de-escalation training must educate
8 officers on the good faith standard for use of deadly force
9 established by this act and how that standard advances violence de-
10 escalation goals.

11 (4) The commission may provide trainings, alone or in partnership
12 with private parties or law enforcement agencies, authorize private
13 parties or law enforcement agencies to provide trainings, or any
14 combination thereof. The entity providing the training may charge a
15 reasonable fee.

16 PART V

17 ESTABLISHING LAW ENFORCEMENT OFFICERS' DUTY TO RENDER FIRST AID

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.28A
19 RCW to read as follows:

20 (1) It is the policy of the state of Washington that all law
21 enforcement personnel must render first aid to save lives.

22 (2) Within one year after the effective date of this section, the
23 Washington state criminal justice training commission, in
24 consultation with the Washington state patrol, the Washington
25 association of sheriffs and police chiefs, organizations representing
26 state and local law enforcement officers, health providers and/or
27 health policy organizations, tribes, and community stakeholders,
28 shall develop guidelines for implementing the duty to render first
29 aid adopted in this section. The guidelines must: (a) Adopt first aid
30 training requirements; (b) assist agencies and law enforcement
31 officers in balancing competing public health and safety duties; and
32 (c) establish that law enforcement officers have a paramount duty to
33 preserve the life of persons whom the officer comes into direct
34 contact with while carrying out official duties, including providing
35 or facilitating immediate first aid to those in agency care or
36 custody at the earliest opportunity.

1 PART VI

2 ADOPTING A "GOOD FAITH" STANDARD FOR LAW ENFORCEMENT OFFICER USE OF
3 DEADLY FORCE

4 Sec. 7. RCW 9A.16.040 and 1986 c 209 s 2 are each amended to
5 read as follows:

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

8 (a) When a public officer applies deadly force (~~(is acting)~~) in
9 obedience to the judgment of a competent court; or

10 (b) When necessarily used by a peace officer meeting the good
11 faith standard of this section to overcome actual resistance to the
12 execution of the legal process, mandate, or order of a court or
13 officer, or in the discharge of a legal duty(~~(-)~~); or

14 (c) When necessarily used by a peace officer meeting the good
15 faith standard of this section or person acting under the officer's
16 command and in the officer's aid:

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

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

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

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

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

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

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

4 Under these circumstances deadly force may also be used if
5 necessary to prevent escape from the officer, where, if feasible,
6 some warning is given, provided the officer meets the good faith
7 standard of this section.

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

12 (4) A law enforcement officer shall not be held criminally liable
13 for using deadly force if such officer meets the good faith standard
14 adopted in this section.

15 (5) The following good faith standard is adopted for law
16 enforcement officer use of deadly force:

17 (a) The good faith standard is met only if both the objective
18 good faith test in (b) of this subsection and the subjective good
19 faith test in (c) of this subsection are met.

20 (b) The objective good faith test is met if a reasonable officer,
21 in light of all the facts and circumstances known to the officer at
22 the time, would have believed that the use of deadly force was
23 necessary to prevent death or serious physical harm to the officer or
24 another individual.

25 (c) The subjective good faith test is met if the officer intended
26 to use deadly force for a lawful purpose and sincerely and in good
27 faith believed that the use of deadly force was warranted in the
28 circumstance.

29 (d) Where the use of deadly force results in death, substantial
30 bodily harm, or great bodily harm, an independent investigation must
31 be completed to inform the determination of whether the use of deadly
32 force met the objective good faith test established by this section
33 and satisfied other applicable laws and policies.

34 (6) For the purpose of this section, "law enforcement officer"
35 means any law enforcement officer in the state of Washington,
36 including but not limited to law enforcement personnel and peace
37 officers as defined by RCW 43.101.010.

38 (7) This section shall not be construed as:

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

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

4 **PART VII**
5 **MISCELLANEOUS**

6 NEW SECTION. **Sec. 8.** The provisions of this act are to be
7 liberally construed to effectuate the intent, policies, and purposes
8 of this act. Nothing in this act precludes local jurisdictions or law
9 enforcement agencies from enacting additional training requirements
10 or requiring law enforcement officers to provide first aid in more
11 circumstances than required by this act or guidelines adopted under
12 this act.

13 NEW SECTION. **Sec. 9.** Except where a different timeline is
14 provided in this act, the Washington state criminal justice training
15 commission must adopt any rules necessary for carrying out the
16 requirements of this act within one year after the effective date of
17 this section. In carrying out all rule making under this act, the
18 commission shall seek input from the attorney general, law
19 enforcement agencies, tribes, and community stakeholders. The
20 commission shall consider the use of negotiated rule making. The
21 rules must require that procedures under RCW 9A.16.040(5)(d) be
22 carried out completely independent of the agency whose officer was
23 involved in the use of deadly force; and, when the deadly force is
24 used on a tribal member, such procedures must include consultation
25 with the member's tribe and, where appropriate, information sharing
26 with such tribe. Where this act requires involvement of community
27 stakeholders, input must be sought from organizations advocating for:
28 Persons with disabilities; members of the lesbian, gay, bisexual,
29 transgender, and queer community; persons of color; immigrants; non-
30 citizens; native Americans; youth; and formerly incarcerated persons.

31 NEW SECTION. **Sec. 10.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 11.** For constitutional purposes, the subject
2 of this act is "law enforcement."

Passed by the House March 8, 2018.

Passed by the Senate March 8, 2018.

Filed in Office of Secretary of State March 8, 2018.

--- END ---