S-3614.2

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**SENATE BILL 6119**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Holy, Braun, Dozier, Padden, Schoesler, Short, Torres, Van De Wege, Wagoner, and J. Wilson

AN ACT Relating to use of force by law enforcement; and reenacting and amending RCW 10.120.020.

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

**Sec.**  RCW 10.120.020 and 2022 c 80 s 3 and 2022 c 4 s 3 are each reenacted and amended to read as follows:

(1) PHYSICAL FORCE. Except as otherwise provided under this section, a peace officer may use physical force against a person to the extent necessary to:

(a) Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense;

(b) Effect an arrest;

(c) Prevent an escape as defined under chapter 9A.76 RCW;

(d) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under chapter 10.77, 71.05, or 71.34 RCW;

(e) Take a minor into protective custody when authorized or directed by statute;

(f) Execute or enforce a court order authorizing or directing a peace officer to take a person into custody;

(g) Execute a search warrant;

(h) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written order where the court expressly authorizes a peace officer to use physical force to execute or enforce the directive or order; ((~~or~~))

(i) Prevent a person from fleeing or stop a person who is actively fleeing a lawful temporary investigative detention, provided that the person has been given notice that he or she is being detained and is not free to leave;

(j) Take a person into custody when authorized or directed by statute; or

(k) Protect against an imminent threat of bodily injury to the peace officer, another person, or the person against whom force is being used.

(2) DEADLY FORCE. Except as otherwise provided under this section, a peace officer may use deadly force against another person only when necessary to protect against an immediate threat of serious physical injury or death to the officer or another person. For purposes of this subsection: "Immediate threat of serious physical injury or death" means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.

(3) REASONABLE CARE. A peace officer shall use reasonable care when determining whether to use physical force or deadly force and when using any physical force or deadly force against another person. To that end, a peace officer shall:

(a) When possible, use all de-escalation tactics that are available and appropriate under the circumstances before using physical force;

(b) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person: Is visibly pregnant, or states that they are pregnant; is known to be a minor, objectively appears to be a minor, or states that they are a minor; is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined in RCW 74.34.020; displays signs of mental, behavioral, or physical impairments or disabilities; is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs; is suicidal; has limited English proficiency; or is in the presence of children;

(c) Terminate the use of physical force as soon as the necessity for such force ends;

(d) When possible, use less lethal alternatives that are available and appropriate under the circumstances before using deadly force; and

(e) Make less lethal alternatives issued to the officer reasonably available for his or her use.

(4) A peace officer may not use any force tactics prohibited by applicable departmental policy, this chapter, or otherwise by law, except to protect his or her life or the life of another person from an imminent threat.

(5) Nothing in this section:

(a) Limits or restricts a peace officer's authority or responsibility to perform lifesaving measures or perform community caretaking functions to ensure health and safety including, but not limited to, rendering medical assistance, performing welfare checks, or assisting other first responders and medical professionals;

(b) Prevents a peace officer from responding to requests for assistance or service from first responders, medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public;

(c) Permits a peace officer to use physical force or deadly force in a manner or under such circumstances that would violate the United States Constitution or state Constitution; or

(d) Prevents a law enforcement agency or political subdivision of this state from adopting policies or standards with additional requirements for de-escalation and greater restrictions on the use of physical and deadly force than provided in this section.

(6)(a) In civil actions arising under Title 42 U.S.C. Sec. 1983, where the petitioner claims a government official's excessive use of force violated his or her Fourth Amendment right to be free from unreasonable seizure, when analyzing whether the use of force by law enforcement was appropriate under subsection (1) of this section, the reviewer shall consider the factors provided in *Graham v. Connor*, 490 U.S. 386, 109 s.ct. 1865 (1989) to determine if the use of force was appropriate based on an objective reasonableness standard.

(b) Whether the officer's actions are objectively reasonable in light of the totality of the circumstances, without regard to the officer's underlying intent or motivation, the "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split second decisions about the amount of force necessary in a particular situation.

(7) For the purposes of this section, "safe," "feasible," "appropriate," "necessary," "possible," "proportional," "reasonable," "available," and "imminent" must be interpreted according to an objective standard which considers all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have determined the action was safe, feasible, appropriate, necessary, possible, proportional, reasonable, or imminent.

**--- END ---**