

government and its existing public institutions, and shall take effect on May 1, 1986.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 209

[Engrossed Substitute Senate Bill No. 4465]

DEADLY FORCE

AN ACT Relating to deadly force; amending RCW 9A.16.010 and 9A.16.040; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9A.16.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.16.010 are each amended to read as follows:

In this chapter, unless a different meaning is plainly required:

(1) "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.

(2) "Deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.

Sec. 2. Section 9A.16.040, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.16.040 are each amended to read as follows:

~~(1) Homicide or the use of deadly force is justifiable ((when committed by a public officer, or person acting under his command and in his aid,))~~ in the following cases:

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

~~((2))~~ (b) When ((necessary)) 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.

~~((3) When necessary in retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of a felony; or in arresting a person who has committed a felony and is fleeing from justice; or in attempting, by lawful ways or means, to apprehend a person for a felony actually committed; or in lawfully suppressing a riot or preserving the peace.))~~

(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.

(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.

NEW SECTION. Sec. 3. The legislature recognizes that RCW 9A.16.040 establishes a dual standard with respect to the use of deadly force by peace officers and private citizens, and further recognizes that private citizens' permissible use of deadly force under the authority of RCW 9.01-.200, 9A.16.020, or 9A.16.050 is not restricted and remains broader than the limitations imposed on peace officers.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

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