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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: S-3580.1/16

ATTY/TYPIST: KT:amh

BRIEF DESCRIPTION: Addressing the use of deadly force by a public officer or peace officer.

1       AN ACT Relating to the use of deadly force by a public officer or  
2 peace officer; amending RCW 9A.16.040; and prescribing penalties.

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

4       **Sec. 1.** 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 is acting in obedience to the judgment  
9 of a competent court; or

10       (b) When necessarily used by a peace officer to overcome actual  
11 resistance to the execution of the legal process, mandate, or order  
12 of a court or officer, or in the discharge of a legal duty.

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

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

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

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

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

6 (2) In considering whether it is necessary to use deadly force  
7 under subsection (1)(c) of this section((7)) to arrest or apprehend  
8 any person for the commission of any crime, the peace officer must  
9 have probable cause to believe that the suspect, if not apprehended,  
10 poses ((a)) an imminent threat of serious physical harm to the  
11 officer or ((a)) an imminent threat of serious physical harm to  
12 others. Among the circumstances which may be considered by peace  
13 officers as ((a)) an "imminent threat of serious physical harm" are  
14 the following:

15 (a) The suspect threatens a peace officer with a weapon or  
16 displays a weapon in a manner that could reasonably be construed as  
17 threatening; or

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

21 Under ((these)) the circumstances of this subsection (2), deadly  
22 force may also be used if necessary to prevent escape from the  
23 officer, where, if feasible, some warning is given, and the escape of  
24 the suspect would pose an imminent threat of serious physical harm to  
25 the officer or another person.

26 (3) ~~((A public officer or peace officer shall not be held~~  
27 ~~criminally liable for using deadly force without malice and with a~~  
28 ~~good faith belief that such act is justifiable pursuant to this~~  
29 ~~section.~~

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

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

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

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