
HOUSE BILL 2712

State of Washington

64th Legislature

2016 Regular Session

By Representatives Wilson, Hayes, Griffey, Klippert, Shea, G. Hunt, Young, and Taylor

Read first time 01/19/16. Referred to Committee on Judiciary.

1 AN ACT Relating to the use of force in self-defense; amending RCW
2 9A.16.020 and 9A.16.050; and adding new sections to chapter 9A.16
3 RCW.

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

5 **Sec. 1.** RCW 9A.16.020 and 1986 c 149 s 2 are each amended to
6 read as follows:

7 The use, attempt, or offer to use force upon or toward the person
8 of another is not unlawful in the following cases:

9 (1) Whenever necessarily used by a public officer in the
10 performance of a legal duty, or a person assisting the officer and
11 acting under the officer's direction;

12 (2) Whenever necessarily used by a person arresting one who has
13 committed a felony and delivering him or her to a public officer
14 competent to receive him or her into custody;

15 (3) Whenever used by a party about to be injured, or by another
16 lawfully aiding him or her, in preventing or attempting to prevent an
17 offense against his or her person, or a malicious trespass, or other
18 malicious interference with real or personal property lawfully in his
19 or her possession, in case the force is not more than is necessary or
20 is permitted pursuant to RCW 9A.16.050;

1 (4) Whenever reasonably used by a person to detain someone who
2 enters or remains unlawfully in a building or on real property
3 lawfully in the possession of such person, so long as such detention
4 is reasonable in duration and manner to investigate the reason for
5 the detained person's presence on the premises, and so long as the
6 premises in question did not reasonably appear to be intended to be
7 open to members of the public;

8 (5) Whenever used by a carrier of passengers or the carrier's
9 authorized agent or servant, or other person assisting them at their
10 request in expelling from a carriage, railway car, vessel, or other
11 vehicle, a passenger who refuses to obey a lawful and reasonable
12 regulation prescribed for the conduct of passengers, if such vehicle
13 has first been stopped and the force used is not more than is
14 necessary to expel the offender with reasonable regard to the
15 offender's personal safety;

16 (6) Whenever used by any person to prevent a mentally ill,
17 mentally incompetent, or mentally disabled person from committing an
18 act dangerous to any person, or in enforcing necessary restraint for
19 the protection or restoration to health of the person, during such
20 period only as is necessary to obtain legal authority for the
21 restraint or custody of the person.

22 **Sec. 2.** RCW 9A.16.050 and 2011 c 336 s 354 are each amended to
23 read as follows:

24 (1) Homicide is also justifiable when committed (~~(either)~~):

25 (~~(1)~~) (a) In the lawful defense of the slayer, or his or her
26 husband, wife, parent, child, brother, or sister, or of any other
27 person in his or her presence or company, when there is reasonable
28 ground to apprehend a design on the part of the person slain to
29 commit a felony or to do some great personal injury to the slayer or
30 to any such person, and there is imminent danger of such design being
31 accomplished(~~(or~~

32 ~~(2)~~) (b) In the actual resistance of an attempt to commit a
33 felony upon the slayer, in his or her presence, or upon or in a
34 dwelling, (~~(or)~~) residence, other place of abode, or occupied vehicle
35 in which he or she is;

36 (c) In the event the slayer had a reasonable fear of imminent
37 peril of death or great bodily harm to himself, herself, or another
38 person in a dwelling, residence, other place of abode, or occupied
39 vehicle.

1 (2) Under subsection (1) of this section, a person does not have
2 a duty to retreat if the person is in a place where he or she has a
3 right to be.

4 NEW SECTION. Sec. 3. A new section is added to chapter 9A.16
5 RCW to read as follows:

6 (1) A person is presumed to have held a reasonable fear of
7 imminent peril of death or great bodily harm to himself or herself or
8 another person when using deadly force pursuant to RCW
9 9A.16.050(1)(c) if:

10 (a) The person against whom the deadly force was used was in the
11 process of unlawfully and forcefully entering or had unlawfully and
12 forcibly entered a dwelling, residence, other place of abode, or
13 occupied vehicle, or if that person had removed or was attempting to
14 remove another against that person's will from a dwelling, residence,
15 other place of abode, or occupied vehicle; and

16 (b) The person who uses deadly force knew or had reason to
17 believe that an unlawful and forcible entry or unlawful and forcible
18 act was occurring or had occurred.

19 (2) The presumption set forth in subsection (1) of this section
20 does not apply if:

21 (a) The person against whom the deadly force is used has the
22 right to be in or is a lawful resident of the dwelling, residence,
23 other place of abode, or vehicle, such as an owner, lessee, or
24 titleholder, and there is not an injunction for protection from
25 domestic violence or a written pretrial supervision order of no
26 contact against that person;

27 (b) The person sought to be removed is a child or grandchild, or
28 is otherwise in the lawful custody or under the lawful guardianship
29 of, the person against whom the deadly force is used;

30 (c) The person who uses deadly force is engaged in an unlawful
31 activity or is using the dwelling, residence, other place of abode,
32 or vehicle to further an unlawful activity; or

33 (d) The person against whom the deadly force is used is a general
34 or limited authority Washington peace officer, as defined in RCW
35 10.93.020, who enters or attempts to enter a dwelling, residence,
36 other place of abode, or vehicle in the performance of his or her
37 official duties and the officer identifies himself or herself in
38 accordance with any applicable law or the person using force knew or

1 reasonably should have known that the person entering or attempting
2 to enter was a law enforcement officer.

3 (3) A person who unlawfully and by force enters or attempts to
4 enter a person's dwelling, residence, other place of abode, or
5 occupied vehicle is presumed to be doing so with the intent to commit
6 an unlawful act involving force or violence.

7 (4) As used in this section:

8 (a) "Dwelling" means any building or structure, including any
9 attached porch, though moveable or temporary, or a portion thereof,
10 which is used or ordinarily used by a person for lodging.

11 (b) "Residence" means a dwelling in which a person resides either
12 temporarily or permanently or is visiting as an invited guest.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.16
14 RCW to read as follows:

15 (1) A person who uses force as permitted in RCW 9A.16.020 or
16 9A.16.050, is justified in using such force and is immune from
17 criminal prosecution for the use of such force and from civil
18 liability for injuries or death resulting from the use of such force,
19 unless the person against whom force was used was a general or
20 limited authority Washington peace officer, as defined in RCW
21 10.93.020, who was acting in the performance of his or her official
22 duties and the officer identifies himself or herself in accordance
23 with any applicable law or the person using force knew or reasonably
24 should have known that the person was a law enforcement officer. As
25 used in this subsection, "criminal prosecution" includes arresting,
26 detaining in custody, and charging or prosecuting the defendant.

27 (2) A law enforcement agency may use standard procedures for
28 investigating the use of force as described in subsection (1) of this
29 section, but the agency may not arrest the person for using force
30 unless it determines that there is probable cause that the force that
31 was used was unlawful.

32 (3) The court shall award reasonable attorneys' fees, court
33 costs, compensation for loss of income, and all expenses incurred by
34 the defendant of any civil action brought by a plaintiff if the court
35 finds that the defendant is immune from prosecution as provided in
36 subsection (1) of this section.

--- END ---