
HOUSE BILL 1726

State of Washington

67th Legislature

2022 Regular Session

By Representatives Goodman and J. Johnson

Prefiled 01/03/22.

1 AN ACT Relating to modifying the standard for use of physical
2 force by peace officers in circumstances involving criminal conduct
3 by allowing a peace officer to use physical force to protect against
4 criminal conduct or effect an investigatory detention when there is
5 reasonable suspicion that a person has committed or is committing a
6 violent offense, a sex offense, an assault, or domestic violence, and
7 allowing a peace officer to use physical force to protect against any
8 other type of criminal offense when there is probable cause that a
9 person has committed or is committing such an offense, subject to the
10 requirement to exercise reasonable care and other protections
11 afforded to the public under the law; amending RCW 10.120.010 and
12 10.120.020; and declaring an emergency.

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

14 **Sec. 1.** RCW 10.120.010 and 2021 c 324 s 2 are each amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Assault" means assault in the first degree, assault in the
19 second degree, assault in the third degree, assault in the fourth
20 degree, assault of a child in the first degree, assault of a child in
21 the second degree, or assault of a child in the third degree.

1 (2) "Domestic violence" has the same meaning as defined in RCW
2 9.94A.030.

3 (3) "Law enforcement agency" includes any "general authority
4 Washington law enforcement agency" and any "limited authority
5 Washington law enforcement agency" as those terms are defined in RCW
6 10.93.020.

7 ~~((2))~~ (4) "Less lethal alternatives" include, but are not
8 limited to, verbal warnings, de-escalation tactics, conducted energy
9 weapons, devices that deploy oleoresin capsicum, batons, and beanbag
10 rounds.

11 ~~((3))~~ (5) "Peace officer" includes any "general authority
12 Washington peace officer," "limited authority Washington peace
13 officer," and "specially commissioned Washington peace officer" as
14 those terms are defined in RCW 10.93.020; however, "peace officer"
15 does not include any corrections officer or other employee of a jail,
16 correctional, or detention facility, but does include any community
17 corrections officer.

18 (6) "Sex offense" has the same meaning as defined in RCW
19 9.94A.030.

20 (7) "Violent offense" has the same meaning as defined in RCW
21 9.94A.030.

22 **Sec. 2.** RCW 10.120.020 and 2021 c 324 s 3 are each amended to
23 read as follows:

24 ~~(1)((a))~~ PHYSICAL FORCE. Except as otherwise provided under
25 this section, a peace officer may use physical force against a person
26 when necessary to:

27 (a) Protect against a violent offense, a sex offense, an assault,
28 or domestic violence when there is reasonable suspicion that the
29 person has committed or is committing the offense;

30 (b) Protect against ~~(criminal conduct where)~~ a criminal offense
31 not included under (a) of this subsection when there is probable
32 cause ~~(to make an arrest; effect an arrest; prevent)~~ that the
33 person has committed or is committing the offense;

34 (c) Effect a temporary investigatory detention when there is
35 reasonable suspicion that the person has committed or is committing a
36 violent offense, a sex offense, an assault, or domestic violence;

37 (d) Effect an arrest;

38 (e) Prevent an escape as defined under chapter 9A.76 RCW; or
39 ~~((protect))~~

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

4 ~~((b)A)~~ (2) DEADLY FORCE. Except as otherwise provided under
5 this section, a peace officer may use deadly force against another
6 person only when necessary to protect against an imminent threat of
7 serious physical injury or death to the officer or another person.
8 For purposes of this subsection ~~((1)(b))~~:

9 ~~((i))~~ (a) "Imminent threat of serious physical injury or death"
10 means that, based on the totality of the circumstances, it is
11 objectively reasonable to believe that a person has the present and
12 apparent ability, opportunity, and intent to immediately cause death
13 or serious bodily injury to the peace officer or another person.

14 ~~((ii))~~ (b) "Necessary" means that, under the totality of the
15 circumstances, a reasonably effective alternative to the use of
16 deadly force does not exist, and that the amount of force used was a
17 reasonable and proportional response to the threat posed to the
18 officer and others.

19 ~~((iii))~~ (c) "Totality of the circumstances" means all facts
20 known to the peace officer leading up to and at the time of the use
21 of force, and includes the actions of the person against whom the
22 peace officer uses such force, and the actions of the peace officer.

23 ~~((2))~~ (3) REASONABLE CARE. A peace officer shall use reasonable
24 care when determining whether to use physical force and when using
25 any physical force against another person. To that end, a peace
26 officer shall:

27 (a) When possible, exhaust available and appropriate de-
28 escalation tactics prior to using any physical force, such as:
29 Creating physical distance by employing tactical repositioning and
30 repositioning as often as necessary to maintain the benefit of time,
31 distance, and cover; when there are multiple officers, designating
32 one officer to communicate in order to avoid competing commands;
33 calling for additional resources such as a crisis intervention team
34 or mental health professional when possible; calling for back-up
35 officers when encountering resistance; taking as much time as
36 necessary, without using physical force or weapons; and leaving the
37 area if there is no threat of imminent harm and no crime has been
38 committed, is being committed, or is about to be committed;

39 (b) When using physical force, use the least amount of physical
40 force necessary to overcome resistance under the circumstances. This

1 includes a consideration of the characteristics and conditions of a
2 person for the purposes of determining whether to use force against
3 that person and, if force is necessary, determining the appropriate
4 and least amount of force possible to effect a lawful purpose. Such
5 characteristics and conditions may include, for example, whether the
6 person: Is visibly pregnant, or states that they are pregnant; is
7 known to be a minor, objectively appears to be a minor, or states
8 that they are a minor; is known to be a vulnerable adult, or
9 objectively appears to be a vulnerable adult as defined in RCW
10 74.34.020; displays signs of mental, behavioral, or physical
11 impairments or disabilities; is experiencing perceptual or cognitive
12 impairments typically related to the use of alcohol, narcotics,
13 hallucinogens, or other drugs; is suicidal; has limited English
14 proficiency; or is in the presence of children;

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

17 (d) When possible, use available and appropriate less lethal
18 alternatives before using deadly force; and

19 (e) Make less lethal alternatives issued to the officer
20 reasonably available for their use.

21 ((+3)) (4) A peace officer may not use any force tactics
22 prohibited by applicable departmental policy, this chapter, or
23 otherwise by law, except to protect his or her life or the life of
24 another person from an imminent threat.

25 ((+4)) (5) Nothing in this section prevents a law enforcement
26 agency or political subdivision of this state from adopting policies
27 or standards with additional requirements for de-escalation and
28 greater restrictions on the use of physical and deadly force than
29 provided in this section.

30 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of
32 the state government and its existing public institutions, and takes
33 effect immediately.

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