
HOUSE BILL 3065

State of Washington 59th Legislature 2006 Regular Session

By Representatives Pearson, Shabro and Woods

Read first time 01/18/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to the protection of persons and property; amending
2 RCW 9A.16.050 and 9A.16.020; adding new sections to chapter 9A.16 RCW;
3 creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the following:

6 (1) The United States Constitution, Amendment II (Bill of Rights),
7 guarantees that, "A well regulated militia being necessary to the
8 security of a free state, the right of the people to keep and bear
9 arms, shall not be infringed."

10 (2) The Washington State Constitution, Article I (Declaration of
11 Rights), Section 24 (Right to Bear Arms), guarantees that, "The right
12 of the individual citizen to bear arms in defense of himself, or the
13 state, shall not be impaired..."

14 (3) The castle doctrine is a common-law doctrine of ancient origins
15 that declares that a person's home is his or her castle.

16 (4) Persons residing in or visiting within this state have a right
17 to expect to remain unmolested by criminals within their homes and
18 vehicles.

1 (5) Persons should not be required to surrender their personal
2 safety and well-being to criminals, nor should such persons be forced
3 to retreat in the face of criminal intrusion or attack.

4 (6) A person who is not engaged in an unlawful activity and who is
5 attacked in a place where he or she has a right to be should have no
6 duty to retreat and should have the right to stand his or her ground
7 and meet force with defensive force, including deadly force in certain
8 circumstances.

9 (7) It is proper for law-abiding persons to protect themselves,
10 their families, and other innocent persons from intruders and attackers
11 without fear of prosecution or civil action for acting in the lawful
12 defense of themselves and others.

13 **Sec. 2.** RCW 9A.16.050 and 1975 1st ex.s. c 260 s 9A.16.050 are
14 each amended to read as follows:

15 ~~((Homicide is also justifiable when committed either:~~

16 ~~(1) In the lawful defense of the slayer, or his or her husband,~~
17 ~~wife, parent, child, brother, or sister, or of any other person in his~~
18 ~~presence or company, when there is reasonable ground to apprehend a~~
19 ~~design on the part of the person slain to commit a felony or to do some~~
20 ~~great personal injury to the slayer or to any such person, and there is~~
21 ~~imminent danger of such design being accomplished; or~~

22 ~~(2) In the actual resistance of an attempt to commit a felony upon~~
23 ~~the slayer, in his presence, or upon or in a dwelling, or other place~~
24 ~~of abode, in which he is.))~~

25 (1) A person who is not engaged in an unlawful activity and is
26 attacked in a place where he or she reasonably believes he or she has
27 a right to be has no duty to retreat and has the right to stand his or
28 her ground and meet force with defensive force, including deadly force.

29 (2) A person is justified in the use of defensive force, except
30 deadly force, against another person when and to the extent that the
31 person reasonably believes that such force is necessary to defend
32 himself or herself or another against the other person's imminent use
33 of unlawful force against himself or herself or another.

34 (3) A person is justified in the use of deadly force if:

35 (a) He or she reasonably believes that such force is necessary to
36 prevent imminent death or great bodily harm to himself or herself or

1 another or to prevent the imminent commission of a felony involving
2 force or violence against himself or herself or another; or

3 (b) Under those circumstances permitted under RCW 9A.16.040.

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

8 (5) A person is presumed to have held a reasonable fear of imminent
9 peril of death or great bodily harm to himself or herself or another
10 when using defensive force that is intended or likely to cause death or
11 great bodily harm to another person if:

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

18 (b) The person who used defensive force knew or reasonably believed
19 that an unlawful and forcible entry or unlawful and forcible removal
20 was occurring or had occurred.

21 (6) The presumption set forth in subsection (5) of this section
22 does not apply if at the time defensive force was used:

23 (a) The person who used defensive force was engaged in an unlawful
24 activity or was using the dwelling, residence, or occupied vehicle to
25 further an unlawful activity; or

26 (b) The person against whom the defensive force was used had the
27 right to be in or was a lawful resident of the dwelling, residence, or
28 vehicle, such as an owner, lessee, or title holder, and there was no
29 relevant protection order in effect against the person; or

30 (c) The person sought to be removed was a child or grandchild or
31 other person otherwise in the lawful custody or under the lawful
32 guardianship of the person against whom the defensive force was used;
33 or

34 (d) The person against whom the defensive force was used was a
35 peace officer who had entered or had attempted to enter a dwelling,
36 residence, or vehicle in the performance of his or her official duties
37 and the officer had identified himself or herself in accordance with

1 any applicable law or the person using defensive force knew or
2 reasonably should have known that the person who had entered or had
3 attempted to enter was a peace officer.

4 (7) As used in this section, "residence" means a dwelling in which
5 a person resides either temporarily or permanently or is visiting as an
6 invited guest.

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

9 A person who is not engaged in an unlawful activity and is in a
10 place where he or she reasonably believes he or she has a right to be
11 is justified in the use of defensive force, except deadly force,
12 against another person when and to the extent that the person, or a
13 person lawfully aiding him or her, reasonably believes that such force
14 is necessary to prevent or terminate the other person's trespass on or
15 other tortious or criminal act against either real property or personal
16 property lawfully in his or her possession or in the possession of
17 another person who is a member of his or her immediate family or
18 household or in the possession of a person whose property he or she has
19 a legal duty to protect. However, a person is justified in the use of
20 deadly force if he or she reasonably believes that such force is
21 necessary to prevent the imminent commission of a felony involving
22 force or violence against himself or herself or another, in which case
23 the person has no duty to retreat and has the right to stand his or her
24 ground.

25 **Sec. 4.** RCW 9A.16.020 and 1986 c 149 s 2 are each amended to read
26 as follows:

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

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

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

35 (3) Whenever used (~~by a party about to be injured, or by another~~
36 ~~lawfully aiding him or her, in preventing or attempting to prevent an~~

1 ~~offense against his or her person, or a malicious trespass, or other~~
2 ~~malicious interference with real or personal property lawfully in his~~
3 ~~or her possession, in case the force is not more than is necessary)) in~~
4 ~~accordance with RCW 9A.16.050 or section 3 of this act;~~

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

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

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

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 9A.16 RCW
27 to read as follows:

28 (1) A person who uses defensive force as permitted in RCW 9A.16.050
29 or section 3 of this act is justified in using such force and is immune
30 from criminal prosecution and civil action for the use of such force,
31 unless the person against whom force was used was a peace officer who
32 was acting in the performance of his or her official duties and the
33 officer had identified himself or herself in accordance with any
34 applicable law or the person using force knew or reasonably should have
35 known that the person was a peace officer. As used in this subsection,
36 "criminal prosecution" includes arresting, detaining in custody, and
37 charging or prosecuting the defendant.

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

6 (3) The court shall award reasonable costs, including loss of time,
7 legal fees incurred, and other expenses involved in his or her defense,
8 incurred by the defendant in defense of a civil action brought by a
9 plaintiff if the court finds that the defendant is immune from
10 prosecution as provided in subsection (1) of this section.

11 NEW SECTION. **Sec. 6.** This act takes effect June 30, 2006.

--- END ---