

**Representative Jennifer Dailey-Provost** proposes the following substitute bill:

**LETHAL FORCE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jennifer Dailey-Provost**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies when a peace officer may use deadly force.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a law enforcement officer in certain situations to have an objectively reasonable belief that the use of deadly force is necessary; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-2-404**, as last amended by Laws of Utah 2015, Chapter 47

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-2-404** is amended to read:

**1st Sub. H.B. 237**



26 **76-2-404. Law enforcement officer use of deadly force.**

27 (1) As used in this section:

28 (a) "Deadly force" means force that creates or is likely to create, or that the individual  
29 using the force intends to create, a substantial likelihood of death or serious bodily injury to an  
30 individual.

31 (b) "Necessary" means that, based on the totality of circumstances known or reasonably  
32 perceived by the officer at the time the decision is made, an objectively reasonable officer in  
33 the same situation would conclude that no reasonably feasible and effective alternative exists  
34 that would prevent death or serious bodily injury to the officer or to an individual other than the  
35 individual against whom force would be used.

36 (c) "Officer" means "law enforcement officer" as that term is defined in Section  
37 53-13-103.

38 (d) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

39 ~~[(1) A peace]~~ (2) An officer, or any [person] individual acting by the officer's  
40 command in providing aid and assistance, [is justified in using deadly force when:] is eligible  
41 to raise the defense of justification for the use of deadly force when:

42 (a) the officer is acting in obedience to and in accordance with the judgment of a  
43 competent court in executing a penalty of death under Subsection 77-18-5.5(2), (3), or (4);

44 (b) effecting an arrest or preventing an escape from custody following an arrest,  
45 ~~[where]~~ if:

46 (i) the officer reasonably believes that deadly force is necessary to prevent the arrest  
47 from being defeated by escape; and

48 ~~[(i)]~~ (ii) (A) the officer has probable cause to believe that the suspect has committed a  
49 felony offense involving the infliction or threatened infliction of death or serious bodily injury;  
50 or

51 ~~[(ii)]~~ (B) the officer has probable cause to believe the suspect poses a threat of death or  
52 serious bodily injury to the officer or to ~~[others]~~ an individual other than the suspect if  
53 apprehension is delayed; or

54 (c) the officer reasonably believes that the use of deadly force is necessary to prevent  
55 death or serious bodily injury to the officer or ~~[another person]~~ an individual other than the  
56 suspect.

57            [~~2~~] (3) If feasible, a verbal warning should be given by the officer prior to any use of  
58 deadly force under Subsection [~~1~~] (2)(b) or [~~1~~] (2)(c).