

HB0237S01 compared with HB0237

~~deleted text~~ shows text that was in HB0237 but was deleted in HB0237S01.

inserted text shows text that was not in HB0237 but was inserted into HB0237S01.

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Representative Jennifer Dailey-Provost proposes the following substitute bill:

LETHAL FORCE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer ~~Dailey-Provost~~ Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

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

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

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

76-2-404. ~~{Peace officer's}~~ **Law enforcement officer** use of deadly force.

~~{(1) A peace}~~ (1) As used in this section:

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

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

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

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

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

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

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

(i) the officer reasonably believes that deadly force is ~~{reasonable and }~~ necessary to prevent the arrest from being defeated by escape; and

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

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or

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

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

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