

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2805 Session of
1986

INTRODUCED BY ARTY, GREENWOOD, RAYMOND, GANNON, BRANDT, FLICK,
CIVERA, MICOZZIE, R. C. WRIGHT, FREIND, DURHAM, KUKOVICH,
MICHLOVIC, DeWEESE, JOSEPHS, WAMBACH AND E. Z. TAYLOR,
OCTOBER 1, 1986

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 1, 1986

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, limiting the defense of justification
3 in certain cases; and making an editorial correction.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 509 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 509. Use of force by persons with special responsibility for
9 care, discipline or safety of others.

10 (a) General rule.--The use of force upon or toward the
11 person of another is justifiable if:

12 (1) The actor is the parent or guardian or other person
13 similarly responsible for the general care and supervision of
14 a minor or a person acting at the request of such parent,
15 guardian or other responsible person and:

16 (i) the force is used for the purpose of
17 safeguarding or promoting the welfare of the minor,

1 including the preventing or punishment of his misconduct;
2 and

3 (ii) the force used is not designed to cause or
4 known to create a substantial risk of causing death,
5 serious bodily injury, disfigurement, extreme pain or
6 mental distress or gross degradation.

7 (2) The actor is a teacher or person otherwise entrusted
8 with the care or supervision for a special purpose of a minor
9 and:

10 (i) the actor believes that the force used is
11 necessary to further such special purpose, including the
12 maintenance of reasonable discipline in a school, class
13 or other group, and that the use of such force is
14 consistent with the welfare of the minor; and

15 (ii) the degree of force, if it had been used by the
16 parent or guardian of the minor, would not be
17 unjustifiable under [subparagraph (1)(ii) of this
18 section] paragraph (1)(ii).

19 (3) The actor is the guardian or other person similarly
20 responsible for the general care and supervision of an
21 incompetent, mentally ill or mentally retarded person; and:

22 (i) the force is [used] necessary for the purpose of
23 safeguarding or promoting the welfare of the incompetent,
24 mentally ill or mentally retarded person, including the
25 prevention of his misconduct[, or, when such incompetent
26 person is in a hospital or other institution for his care
27 and custody, for the maintenance of reasonable discipline
28 in such institution]; and

29 (ii) the force used is not designed to cause or
30 known to create a substantial unnecessary risk of causing

1 death, [serious] bodily injury, disfigurement, [extreme
2 or unnecessary] pain, mental distress, or humiliation.

3 (4) The actor is a doctor or other therapist or a person
4 assisting him at his direction; and:

5 (i) the force is used for the purpose of
6 administering a recognized form of treatment not
7 prohibited by law of this Commonwealth which the actor
8 believes to be adapted to promoting the physical or
9 mental health of the patient; and

10 (ii) the treatment is administered with the consent
11 of the patient, or, if the patient is a minor or an
12 incompetent person with the consent of his parent or
13 guardian or other person legally competent to consent in
14 his behalf, or the treatment is administered in an
15 emergency when the actor believes that no one competent
16 to consent can be consulted and that a reasonable person,
17 wishing to safeguard the welfare of the patient, would
18 consent.

19 (5) The actor is a warden or other authorized official
20 of a correctional institution; and:

21 (i) he believes that the force used is necessary for
22 the purpose of enforcing the lawful rules or procedures
23 of the institution, unless his belief in the lawfulness
24 of the rule or procedure sought to be enforced is
25 erroneous and his error is due to ignorance or mistake as
26 to the provisions of this title, any other provision of
27 the criminal law or the law governing the administration
28 of the institution;

29 (ii) the nature or degree of force used is not
30 forbidden by law; and

(iii) if deadly force is used, its use is otherwise justifiable under this chapter.

(6) The actor is a person responsible for the safety of a vessel or an aircraft or a person acting at his direction; and:

(i) he believes that the force used is necessary to prevent interference with the operation of the vessel or aircraft or obstruction of the execution of a lawful order, unless his belief in the lawfulness of the order is erroneous and his error is due to ignorance or mistake as to the law defining his authority; and

(ii) if deadly force is used, its use is otherwise justifiable under this chapter.

(7) The actor is a person who is authorized or required by law to maintain order or decorum in a vehicle, train or other carrier or in a place where others are assembled; and:

(i) he believes that the force used is necessary for such purpose; and

(ii) the force used is not designed to cause death, or known to create a substantial risk of causing death, bodily injury, or extreme mental distress.

(b) Necessary force.--As used in subsection (a)(3)(i), force shall be deemed necessary only if no reasonable alternative is available and the force used is limited to that which is required to prevent imminent physical injury to the actor, the incompetent person, mentally ill or mentally retarded person or another person.

Section 2. This act shall take effect in 60 days.