

LEGISLATIVE REFERENCE BUREAU

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No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in general principles of justification, further providing for definitions, for use of force in self-protection, for use of force for the protection of property and for use of force by persons with special responsibility for care, discipline or safety of others.

INTRODUCED _____ 20 _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in general principles of
3 justification, further providing for definitions, for use of
4 force in self-protection, for use of force for the protection
5 of property and for use of force by persons with special
6 responsibility for care, discipline or safety of others.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 501 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a definition to read:

11 § 501. Definitions.

12 Subject to additional definitions contained in subsequent
13 provisions of this chapter which are applicable to specific
14 provisions of this chapter, the following words and phrases,
15 when used in this chapter shall have, unless the context clearly
16 indicates otherwise, the meanings given to them in this section:

17 * * *

18 "Public safety dispatcher." An individual that has fulfilled
19 all minimum training and certification standards for emergency

1 dispatchers, call takers and supervisors who work for 911
2 emergency communications centers or remote dispatch points in
3 this Commonwealth in accordance with 4 Pa. Code Ch. 120c
4 (relating to training and certification standards for 911
5 emergency communications personnel).

6 * * *

7 Section 2. Section 505(b)(1), (2), (2.2), (2.3) and (2.4) of
8 Title 18 are amended to read:

9 § 505. Use of force in self-protection.

10 * * *

11 (b) Limitations on justifying necessity for use of force.--

12 (1) The use of force is not justifiable under this
13 section:

14 (i) to resist an arrest which the actor knows is
15 being made by a peace officer, although the arrest is
16 unlawful; [or]

17 (ii) to resist force used by the occupier or
18 possessor of property or by another person on his behalf,
19 where the actor knows that the person using the force is
20 doing so under a claim of right to protect the property,
21 except that this limitation shall not apply if:

22 (A) the actor is a public officer acting in the
23 performance of his duties or a person lawfully
24 assisting him therein or a person making or assisting
25 in a lawful arrest;

26 (B) the actor has been unlawfully dispossessed
27 of the property and is making a reentry or recaption
28 justified by section 507 of this title (relating to
29 use of force for the protection of property); or

30 (C) the actor believes that such force is

1 necessary to protect himself against death or serious
2 bodily injury[.];

3 (iii) if the actor knows that he can avoid the
4 necessity of using such force with complete safety by
5 retreating; or

6 (iv) if the actor was instructed by a peace officer
7 or public safety dispatcher to not pursue another person.

8 (2) The use of deadly force is not justifiable under
9 this section unless the actor believes that such force is
10 necessary to protect himself against death, serious bodily
11 injury, kidnapping or sexual intercourse compelled by force
12 or threat; nor is it justifiable if:

13 (i) the actor, with the intent of causing death or
14 serious bodily injury, provoked the use of force against
15 himself in the same encounter; [or]

16 (ii) the actor knows that he can avoid the necessity
17 of using such force with complete safety by retreating[,
18 except the actor is not obliged to retreat from his
19 dwelling or place of work, unless he was the initial
20 aggressor or is assailed in his place of work by another
21 person whose place of work the actor knows it to be.]; or

22 (iii) the actor was instructed by a peace officer or
23 a public safety dispatcher to not pursue another person.

24 * * *

25 (2.2) The presumption set forth in paragraph (2.1) does
26 not apply if:

27 (i) the person against whom the force is used has
28 the right to be in or is a lawful resident of the
29 dwelling, residence or vehicle, such as an owner or
30 lessee;

1 (ii) the person sought to be removed is a child or
2 grandchild or is otherwise in the lawful custody or under
3 the lawful guardianship of the person against whom the
4 protective force is used;

5 (iii) the actor is engaged in a criminal activity or
6 is using the dwelling, residence or occupied vehicle to
7 further a criminal activity; [or]

8 (iv) the person against whom the force is used is a
9 peace officer acting in the performance of his official
10 duties and the actor using force knew or reasonably
11 should have known that the person was a peace officer[.];

12 (v) the actor knows that he can avoid the necessity
13 of using such force with complete safety by retreating;
14 or

15 (vi) the actor was instructed by a peace officer or
16 public safety dispatcher to not pursue another person.

17 [(2.3) An actor who is not engaged in a criminal
18 activity, who is not in illegal possession of a firearm and
19 who is attacked in any place where the actor would have a
20 duty to retreat under paragraph (2)(ii) has no duty to
21 retreat and has the right to stand his ground and use force,
22 including deadly force, if:

23 (i) the actor has a right to be in the place where
24 he was attacked;

25 (ii) the actor believes it is immediately necessary
26 to do so to protect himself against death, serious bodily
27 injury, kidnapping or sexual intercourse by force or
28 threat; and

29 (iii) the person against whom the force is used
30 displays or otherwise uses:

1 (A) a firearm or replica of a firearm as defined
2 in 42 Pa.C.S. § 9712 (relating to sentences for
3 offenses committed with firearms); or

4 (B) any other weapon readily or apparently
5 capable of lethal use.

6 (2.4) The exception to the duty to retreat set forth
7 under paragraph (2.3) does not apply if the person against
8 whom the force is used is a peace officer acting in the
9 performance of his official duties and the actor using force
10 knew or reasonably should have known that the person was a
11 peace officer.]

12 * * *

13 Section 3. Section 507(c) of Title 18 is amended by adding
14 paragraphs to read:

15 § 507. Use of force for the protection of property.

16 * * *

17 (c) Limitations on justifiable use of force.--

18 * * *

19 (3.1) The use of force to prevent or terminate a
20 trespass is not justifiable under this section if:

21 (i) the actor knows that he can avoid the necessity
22 of using such force with complete safety by retreating;
23 or

24 (ii) the actor was instructed by a peace officer or
25 public safety dispatcher to not pursue another person.

26 * * *

27 (5) The use of deadly force is not justifiable under
28 this section if:

29 (i) the actor knows that he can avoid the necessity
30 of using such force with complete safety by retreating;

1 or

2 (ii) the actor was instructed by a peace officer or
3 public safety dispatcher to not pursue another person.

4 * * *

5 Section 4. Section 509 of Title 18 is amended to read:

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

8 (a) Justifiable use of force.--The use of force upon or
9 toward the person of another is justifiable if:

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

14 (i) the force is used for the purpose of
15 safeguarding or promoting the welfare of the minor,
16 including the preventing or punishment of his misconduct;
17 and

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

22 (2) The actor is a teacher or person otherwise entrusted
23 with the care or supervision for a special purpose of a minor
24 and:

25 (i) the actor believes that the force used is
26 necessary to further such special purpose, including the
27 maintenance of reasonable discipline in a school, class
28 or other group, and that the use of such force is
29 consistent with the welfare of the minor; and

30 (ii) the degree of force, if it had been used by the

1 parent or guardian of the minor, would not be
2 unjustifiable under paragraph (1)(ii).

3 (3) The actor is the guardian or other person similarly
4 responsible for the general care and supervision of an
5 incapacitated, mentally ill or mentally retarded person; and:

6 (i) the force is used for the purpose of
7 safeguarding or promoting the welfare of the
8 incapacitated, mentally ill or mentally retarded person,
9 including the prevention of his misconduct, and there is
10 no reasonable alternative to the use of such force; and

11 (ii) the force used is not designed to cause or
12 known to create a substantial risk of causing death,
13 bodily injury, disfigurement, unnecessary pain, mental
14 distress, or humiliation.

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

17 (i) the force is used for the purpose of
18 administering a recognized form of treatment not
19 prohibited by law of this Commonwealth which the actor
20 believes to be adapted to promoting the physical or
21 mental health of the patient; and

22 (ii) the treatment is administered with the consent
23 of the patient, or, if the patient is a minor or an
24 incapacitated person with the consent of his parent or
25 guardian or other person legally competent to consent in
26 his behalf, or the treatment is administered in an
27 emergency when the actor believes that no one competent
28 to consent can be consulted and that a reasonable person,
29 wishing to safeguard the welfare of the patient, would
30 consent.

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

3 (i) he believes that the force used is necessary for
4 the purpose of enforcing the lawful rules or procedures
5 of the institution, unless his belief in the lawfulness
6 of the rule or procedure sought to be enforced is
7 erroneous and his error is due to ignorance or mistake as
8 to the provisions of this title, any other provision of
9 the criminal law or the law governing the administration
10 of the institution;

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

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

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

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

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

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

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

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

4 (b) Use of force not justifiable.--The use of force upon or
5 toward the person of another is not justifiable if:

6 (1) the actor knows that he can avoid the necessity of
7 using such force with complete safety by retreating; or

8 (2) the actor was instructed by a peace officer or
9 public safety dispatcher to not pursue another person.

10 Section 5. This act shall take effect in 60 days.