

ASSEMBLY, No. 4526

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 10, 2020

Sponsored by:

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District 28 (Essex)

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District 35 (Bergen and Passaic)

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Co-Sponsored by:

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SYNOPSIS

Establishes requirements for use of deadly force.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/11/2021)

1 AN ACT concerning the use of deadly force and amending
2 N.J.S.2C:3-7.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:3-7 is amended to read as follows:

8 a. Use of force justifiable to effect an arrest. Subject to the
9 provisions of this section and **of section 2C:3-9** N.J.S.2C:3-9, the
10 use of force upon or toward the person of another is justifiable
11 when the actor is making or assisting in making an arrest and the
12 actor reasonably believes that such force is immediately necessary
13 to effect a lawful arrest.

14 b. Limitations on the use of force.

15 (1) The use of force is not justifiable under this section unless:

16 (a) The actor makes known the purpose of the arrest or
17 reasonably believes that it is otherwise known by or cannot
18 reasonably be made known to the person to be arrested; and

19 (b) When the arrest is made under a warrant, the warrant is valid
20 or reasonably believed by the actor to be valid.

21 (2) The use of deadly force is not justifiable under this section
22 unless:

23 (a) **The actor effecting the arrest is authorized to act as a peace**
24 **officer or has been summoned by and is assisting a person whom**
25 **he reasonably believes to be authorized to act as a peace officer;**
26 **and** (Deleted by amendment, P.L. , c.) (pending before the
27 Legislature as this bill)

28 (b) **The actor reasonably believes that the force employed**
29 **creates no substantial risk of injury to innocent persons; and**
30 (Deleted by amendment, P.L. , c.) (pending before the
31 Legislature as this bill)

32 (c) **The actor reasonably believes that the crime for which the**
33 **arrest is made was homicide, kidnapping, an offense under 2C:14-2**
34 **or 2C:14-3, arson, robbery, burglary of a dwelling, or an attempt to**
35 **commit one of these crimes; and** (Deleted by amendment,
36 P.L. , c.) (pending before the Legislature as this bill)

37 (d) The actor reasonably believes:

38 (i) There is an imminent threat of deadly force to **himself** the
39 actor or a third party **;** or **.**

40 (ii) **The use of deadly force is necessary to thwart the**
41 **commission of a crime as set forth in subparagraph (c) of this**
42 **paragraph; or** (Deleted by amendment, P.L. , c.) (pending
43 before the Legislature as this bill)

44 (iii) **The use of deadly force is necessary to prevent an**
45 **escape.** (Deleted by amendment, P.L. , c.) (pending before the
46 Legislature as this bill)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. Use of force to prevent escape from custody. The use of
2 force to prevent the escape of an arrested person from custody is
3 justifiable when the force could, under subsections a. and b. of this
4 section, have been employed to effect the arrest under which the
5 person is in custody. A **【correction】** correctional police officer or
6 other person authorized to act as a peace officer is **【, however,】**
7 justified in using **【any】** force **【including】** other than deadly force,
8 which **【he】** the officer or authorized person reasonably believes to
9 be immediately necessary to prevent the escape of a person
10 committed to a jail, prison, or other institution for the detention of
11 persons charged with or convicted of an offense **【so long as the**
12 **actor believes that the force employed creates no substantial risk of**
13 **injury to innocent persons】**.

14 d. Use of force by private person assisting an unlawful arrest.

15 (1) A private person who is summoned by a peace officer to
16 assist in effecting an unlawful arrest is justified in using **【any】**
17 force, other than deadly force, which **【he】** the person would be
18 justified in using if the arrest were lawful, provided that **【he】** the
19 person does not believe the arrest is unlawful.

20 (2) A private person who assists another private person in
21 effecting an unlawful arrest, or who, not being summoned, assists a
22 peace officer in effecting an unlawful arrest, is justified in using
23 **【any】** force, other than deadly force, which **【he】** the person would
24 be justified in using if the arrest were lawful, provided that (a) **【he】**
25 the person reasonably believes the arrest is lawful, and (b) the arrest
26 would be lawful if the facts were as **【he】** the person believes them
27 to be and such belief is reasonable.

28 e. Use of force to prevent suicide or the commission of a
29 crime. The use of force upon or toward the person of another is
30 justifiable when the actor reasonably believes that such force is
31 immediately necessary to prevent such other person from
32 committing suicide, inflicting serious bodily harm upon himself,
33 committing or consummating the commission of a crime involving
34 or threatening bodily harm, damage to or loss of property or a
35 breach of the peace, except that:

36 (1) Any limitations imposed by the other provisions of this
37 chapter on the justifiable use of force in self-protection**【,】** or for the
38 protection of others**【,】** the protection of property, the effectuation of
39 an arrest or the prevention of an escape from custody**】** shall apply
40 notwithstanding the criminality of the conduct against which such
41 force is used; and

42 (2) The use of deadly force is not in any event justifiable under
43 this subsection unless the actor reasonably believes that it is likely
44 that the person whom **【he】** the actor seeks to prevent from
45 committing a crime will endanger human life or inflict serious
46 bodily harm upon another **【unless the commission or the**

1 consummation of the crime is prevented] and that the use of such
2 force presents no substantial risk of injury to innocent persons.
3 (cf: P.L.1981, c.290, s.5)

4

5 2. This act shall take effect immediately.

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STATEMENT

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10 This bill eliminates making an arrest or preventing an escape as
11 justification for the use deadly force.

12 Under current law, the use of deadly force is justified when used
13 to make an arrest under certain circumstances. Specifically, the use
14 of deadly force to effectuate an arrest is justified if the actor
15 effecting the arrest is authorized to act as a peace officer, or has
16 been summoned by and is assisting a peace officer, and reasonably
17 believes that:

- 18 • the force creates no substantial risk of injury to innocent
19 persons and that the crime for which the arrest is made was
20 homicide, kidnapping, sexual assault, criminal sexual
21 contact, arson, robbery, or burglary of a dwelling; and
- 22 • there is an imminent threat of deadly force to the actor or a
23 third party; or
- 24 • the use of deadly force is necessary to thwart the
25 commission of a crime.

26 A correctional police officer, or person authorized to act as a
27 peace officer, is justified in using deadly force under current law if
28 the officer or authorized person reasonably believes the deadly
29 force is immediately necessary to prevent the escape of a person
30 committed to a jail, prison, or other institution for the detention of
31 persons charged with or convicted of an offense, so long as the
32 actor believes that the force employed creates no substantial risk of
33 injury to an innocent person.

34 This bill amends current law to provide that the use of deadly
35 force to effectuate an arrest is only justified if there is an imminent
36 threat of deadly force to the person using force or a third party. The
37 bill also provides that the use of deadly force may not be used to
38 prevent the escape of a person charged or convicted of an offense.