SENATE, No. 3825

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)
Senator SANDRA B. CUNNINGHAM
District 31 (Hudson)

SYNOPSIS

Establishes requirements for use of deadly force.

CURRENT VERSION OF TEXT

As introduced.

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

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

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

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

b. Limitations on the use of force.

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

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

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

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

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

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

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

(d) The actor reasonably believes:

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

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

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

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

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

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

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

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

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

(2) The use of deadly force is not in any event justifiable under this subsection unless the actor reasonably believes that it is likely

that the person whom [he] the actor seeks to prevent from committing a crime will endanger human life or inflict serious bodily harm upon another [unless the commission or the consummation of the crime is prevented] and that the use of such force presents no substantial risk of injury to innocent persons.
(cf: P.L.1981, c.290, s.5)

2. This act shall take effect immediately.

STATEMENT

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

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

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

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

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