

# STATE OF NEW YORK

1471

2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PERRY, TAYLOR, EPSTEIN, DICKENS, L. ROSENTHAL,  
GOTTFRIED, CAHILL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to justification for the use  
of deadly physical force by a police or peace officer

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "New York  
2 police use of deadly force restraint act".

3 § 2. Subdivision 1 of section 35.30 of the penal law, as added by  
4 chapter 73 of the laws of 1968, the opening paragraph as amended by  
5 chapter 511 of the laws of 2004, and paragraph (c) as amended by chapter  
6 843 of the laws of 1980, is amended and a new subdivision 1-a is added  
7 to read as follows:

8 1. A police officer or a peace officer, in the course of effecting or  
9 attempting to effect an arrest, or of preventing or attempting to  
10 prevent the escape from custody, of a person whom he or she reasonably  
11 believes to have committed an offense, may use physical force when and  
12 to the extent he or she reasonably believes such to be necessary to  
13 effect the arrest, or to prevent the escape from custody, or in self-de-  
14 fense or to defend a third person from what he or she reasonably  
15 believes to be the use or imminent use of physical force; except that  
16 deadly physical force may be used for such purposes only when he or she  
17 reasonably believes that:

18 (a) The offense committed by such person was[+

19 ~~(i) a felony or an attempt to commit a felony involving the use or~~  
20 ~~attempted use or threatened imminent use of physical force against a~~  
21 ~~person; or~~

22 ~~(ii) kidnapping, arson, escape in the first degree, burglary in the~~  
23 ~~first degree or any attempt to commit such a crime] a felony that  
24 threatened or resulted in death or serious bodily injury, if the officer  
25 reasonably believes that the person will cause death or serious bodily~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 injury to another person unless immediately apprehended. Where feasible,  
2 a police officer or peace officer shall, prior to the use of force,  
3 make reasonable efforts to identify himself or herself as a police offi-  
4 cer or peace officer and to warn that deadly force may be used, unless  
5 the officer has objectively reasonable grounds to believe such person is  
6 aware of those facts; or

7 (b) [~~The offense committed or attempted by such person was a felony~~  
8 ~~and that, in the course of resisting arrest therefor or attempting to~~  
9 ~~escape from custody, such person is armed with a firearm or deadly weap-~~  
10 ~~on; or~~

11 (e)] Regardless of the particular offense which is the subject of the  
12 arrest or attempted escape, the use of deadly physical force is neces-  
13 sary to defend the police officer or peace officer or another person  
14 from what the officer reasonably believes to be the use or imminent use  
15 of deadly physical force.

16 1-a. A police officer or peace officer shall not use deadly force  
17 against a person based on the danger that such person poses to himself  
18 or herself, if an objectively reasonable officer would believe the  
19 person does not pose an imminent threat of death or serious bodily inju-  
20 ry to the police officer, peace officer or to another person.

21 § 3. This act shall take effect immediately.