

STATE OF NEW YORK

6111

2025-2026 Regular Sessions

IN SENATE

March 5, 2025

Introduced by Sens. PARKER, GIANARIS, HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to justifying the use of force by police officers and peace officers and to the excessive use of police force

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

- 1 Section 1. Section 35.30 of the penal law, as added by chapter 73 of
2 the laws of 1968, the opening paragraph of subdivision 1, subdivisions 2
3 and 3, the opening paragraph and paragraph (a) of subdivision 4 and
4 subdivision 5 as amended by chapter 511 of the laws of 2004, paragraph
5 (c) of subdivision 1 as amended by chapter 843 of the laws of 1980, and
6 paragraph (b) of subdivision 4 as amended by chapter 264 of the laws of
7 2003, is amended to read as follows:
8 § 35.30 Justification; use of physical force in making an arrest or in
9 preventing an escape.
10 1. A police officer or a peace officer, in the course of effecting or
11 attempting to effect an arrest that the officer reasonably believes is
12 lawful, or of preventing or attempting to prevent the escape from custo-
13 dy, of a person whom [~~he or she~~] such person reasonably believes to have
14 committed an offense, may use physical force when and to the extent [~~he~~
15 ~~or she~~] such person reasonably believes such to be necessary to effect
16 the arrest, or to prevent the escape from custody, or in self-defense or
17 to defend a third person from what [~~he or she~~] such person reasonably
18 believes to be the use or imminent use of physical force; except that
19 deadly physical force may be used for such purposes only when [~~he or~~
20 ~~she~~] such person reasonably believes that:
21 (a) [~~The offense committed by such person was+~~

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

LBD10664-01-5

1 ~~(i) a felony or an attempt to commit a felony involving the use or~~
2 ~~attempted use or threatened imminent use of physical force against a~~
3 ~~person; or~~

4 ~~(ii) kidnapping, arson, escape in the first degree, burglary in the~~
5 ~~first degree or any attempt to commit such a crime] There is probable~~

6 cause to believe that the person has committed a felony involving death
7 or serious bodily injury, and the officer reasonably believes (i) such
8 person is armed with a firearm or other deadly weapon, (ii) the individ-
9 ual would cause death or serious bodily injury to another if not imme-
10 diately apprehended, (iii) that no less-lethal force alternatives or
11 non-force tactics or techniques are sufficient to subdue the person, and
12 (iv) that the officer's use of deadly force does not create a substan-
13 tial risk of serious bodily injury to any persons other than the person
14 against whom the deadly force is directed; or

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

19 ~~(c)] Regardless of the particular offense which is the subject of the~~

20 arrest or attempted escape, the use of deadly physical force is neces-
21 sary to defend the police officer or peace officer or another person
22 from what the officer reasonably believes to be the use or imminent use
23 of deadly physical force.

24 2. For the purposes of this section, a person reasonably believes a
25 use of force is necessary when (a) such person actually holds that
26 belief, and (b) a reasonable person under the same circumstances would
27 hold that belief.

28 3. For the purposes of this section, physical force shall be consid-
29 ered necessary when there are no reasonable alternative means to effect
30 the lawful objective and avoid the use of force or reduce the severity
31 of the force used, including the use of less-lethal force alternatives,
32 non-force tactics or techniques that are intended to stabilize the situ-
33 ation and reduce the immediacy of the threat, such as distance, cover,
34 containment, tactical repositioning, requesting additional officers, and
35 surveillance, verbal communication or de-escalation and the deployment
36 of specialized equipment or resources, such as officers trained in
37 crisis intervention, or mental health professionals. An alternative to
38 the use of physical force may be a reasonable alternative even if it
39 extends the overall duration of the interaction.

40 4. For the purposes of this section, a threat shall be considered
41 imminent when the person reasonably appears to have the present ability,
42 opportunity, and apparent intent to immediately inflict injury.

43 5. The use of any level of force by a police officer or peace officer
44 may be deemed not justified pursuant to subdivision one of this section
45 if such officer engaged in conduct that created a substantial and unjust-
46 ifiable risk that force would become necessary.

47 6. The use of any level of force by a police officer or peace officer
48 shall be presumptively not justified pursuant to subdivision one of this
49 section if applied to a person who has been rendered incapable of
50 resisting arrest.

51 7. The fact that a police officer or a peace officer is justified in
52 using deadly physical force under circumstances prescribed in [~~para-~~
53 ~~graphs (a) and (b) of~~] subdivision one of this section does not consti-
54 tute justification for reckless conduct by such police officer or peace
55 officer amounting to an offense against or with respect to innocent

1 persons whom [~~he or she is~~] they are not seeking to arrest or retain in
2 custody.

3 [~~3-~~] 8. A person who has been directed by a police officer or a peace
4 officer to assist such police officer or peace officer to effect an
5 arrest or to prevent an escape from custody may use physical force,
6 other than deadly physical force, when and to the extent that [~~he or~~
7 ~~she~~] such person reasonably believes such to be necessary to carry out
8 such police officer's or peace officer's direction, unless [~~he or she~~]
9 such person knows that the arrest or prospective arrest is not or was
10 not authorized and may use deadly physical force under such circum-
11 stances when:

12 (a) [~~He or she~~] Such person reasonably believes such to be necessary
13 for self-defense or to defend a third person from what [~~he or she~~] such
14 person reasonably believes to be the use or imminent use of deadly phys-
15 ical force; or

16 (b) [~~He or she~~] Such person is directed or authorized by such police
17 officer or peace officer to use deadly physical force unless [~~he or she~~]
18 such person knows that the police officer or peace officer is not
19 authorized to use deadly physical force under the circumstances.

20 [~~4-~~] 9. A private person acting on [~~his or her~~] their own account may
21 use physical force, other than deadly physical force, upon another
22 person when and to the extent that [~~he or she~~] such private person
23 reasonably believes such to be necessary to effect an arrest or to
24 prevent the escape from custody of a person whom [~~he or she~~] they
25 reasonably [~~believes~~] believe to have committed an offense and who in
26 fact has committed such offense; and may use deadly physical force for
27 such purpose when [~~he or she~~] they reasonably [~~believes~~] believe such to
28 be necessary to[+]

29 [~~(a) Defend himself, herself~~] defend themselves or a third person from
30 what [~~he or she~~] such private person reasonably believes to be the use
31 or imminent use of deadly physical force[~~, or~~

32 [~~(b) Effect the arrest of a person who has committed murder,~~
33 ~~manslaughter in the first degree, robbery, forcible rape or forcible~~
34 ~~criminal sexual act and who is in immediate flight therefrom~~].

35 [~~5-~~] 10. A guard, police officer or peace officer who is charged with
36 the duty of guarding prisoners in a detention facility, as that term is
37 defined in section 205.00 of this chapter, or while in transit to or
38 from a detention facility, may use physical force when and to the extent
39 that [~~he or she~~] such person reasonably believes such to be necessary to
40 prevent the escape of a prisoner from a detention facility or from
41 custody while in transit thereto or therefrom.

42 § 2. The penal law is amended by adding three new sections 120.75,
43 120.76 and 120.77 to read as follows:

44 § 120.75 Excessive use of force by a police officer or a peace officer
45 in the third degree.

46 A police officer or peace officer is guilty of excessive use of force
47 by a police officer or a peace officer in the third degree when, in the
48 course of effecting an arrest, preventing an escape from custody, or
49 otherwise in furtherance of an authorized law enforcement objective,
50 such police officer or peace officer:

51 1. intentionally uses a degree of physical force against a person that
52 is grossly in excess of the degree of force that a reasonable person
53 under the same circumstances would believe to be necessary to achieve
54 the intended outcome; and

55 2. such use of physical force causes physical injury to that person or
56 to another person.

1 Excessive use of force by a police officer or a peace officer in the
2 third degree is a class A misdemeanor.

3 § 120.76 Excessive use of force by a police officer or a peace officer
4 in the second degree.

5 A police officer or peace officer is guilty of excessive use of force
6 by a police officer or a peace officer in the second degree when such
7 police officer or peace officer, in the course of effecting an arrest,
8 preventing an escape from custody, or otherwise in furtherance of an
9 authorized law enforcement objective:

10 1. intentionally uses a degree of physical force against a person that
11 is grossly in excess of the degree of force that a reasonable person
12 under the same circumstances would believe to be necessary to achieve
13 the intended outcome; and

14 2. such use of physical force causes serious physical injury to that
15 person or to another person.

16 Excessive use of force by a police officer or a peace officer in the
17 second degree is a class D felony.

18 § 120.77 Excessive use of force by a police officer or a peace officer
19 in the first degree.

20 A police officer or peace officer is guilty of excessive use of force
21 by a police officer or a peace officer in the first degree when such
22 police officer or peace officer, in the course of effecting an arrest,
23 preventing an escape from custody, or otherwise in furtherance of an
24 authorized law enforcement objective:

25 1. intentionally uses a degree of physical force against a person that
26 is grossly in excess of the degree of force that a reasonable person
27 under the same circumstances would believe to be necessary to achieve
28 the intended outcome; and

29 2. such use of physical force causes death to that person or to anothe-
30 er person.

31 Excessive use of force by a police officer or a peace officer in the
32 first degree is a class C felony.

33 § 3. This act shall take effect immediately.