S T A T E O F N E W Y O R K

2952

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. ROBINSON -- Multi-Sponsored by -- M. of A. TOWNS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the use of deadly force by police officers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subparagraph (ii) of paragraph (a) of subdivision 2 of section 35.15 of the penal law, as amended by chapter 511 of the laws of 2004, is amended to read as follows:

(ii) a police officer or peace officer or a person assisting a police officer or a peace officer at the latter's direction, acting pursuant to section 35.30 OF THIS ARTICLE; PROVIDED, HOWEVER, HE OR SHE USES SUCH FORCE WITH THE INTENT TO STOP, RATHER THAN KILL, THE PERSON WHO HE OR SHE REASONABLY BELIEVES IS USING UNLAWFUL FORCE, AND USES ONLY THE MINIMAL AMOUNT OF FORCE NECESSARY TO EFFECT SUCH STOP; or

S 2. Paragraph (c) of subdivision 1 of section 35.30 of the penal law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force; PROVIDED, HOWEVER, HE OR SHE USES SUCH FORCE WITH THE INTENT TO STOP, RATHER THAN KILL, A PERSON FROM ESCAPING OR RESISTING ARREST, AND USES ONLY THE MINIMAL AMOUNT OF FORCE NECESSARY TO EFFECT SUCH STOP.

S 3. Section 125.15 of the penal law is amended to read as follows:

S 125.15 Manslaughter in the second degree.

A person is guilty of manslaughter in the second degree when:

1. He OR SHE recklessly causes the death of another person; or

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

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2. He OR SHE commits upon a female an abortional act which causes her death, unless such abortional act is justifiable pursuant to subdivision three of section 125.05 OF THIS ARTICLE; or

3. He OR SHE intentionally causes or aids another person to commit suicide[.]; OR

4. HE OR SHE IS A POLICE OFFICER OR PEACE OFFICER WHO KILLS A PERSON BY USE OF A LOADED WEAPON, FOR A PURPOSE OTHERWISE JUSTIFIED BY LAW, WITH THE INTENT TO KILL, RATHER THAN STOP, SUCH PERSON, AND BEYOND THE MINIMAL AMOUNT OF FORCE NECESSARY TO STOP THE PERSON.

Manslaughter in the second degree is a class C felony.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.