

STATE OF NEW YORK

739

2023-2024 Regular Sessions

IN SENATE

January 6, 2023

Introduced by Sen. PARKER -- 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 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 Assembly, 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.