



SENATE BILL No. 405

March 16, 1995, Introduced by Senator VAUGHN and referred to the Committee on Judiciary.

A bill to prescribe the powers and duties of certain public officers and employees regarding the use of deadly force.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Corrections center" means a community corrections
3 center, halfway house, or resident home that houses prisoners.

4 (b) "Custody" means either of the following:

5 (i) Confinement in a detention facility.

6 (ii) Detention by a law enforcement officer after arraign-
7 ment before a magistrate or the taking of a person to a detention
8 facility, whichever occurs earlier.

9 (c) "Detention facility" means a facility, other than a cor-
10 rections center, used to confine, even temporarily, individuals
11 arrested for or convicted of crimes.

1 (d) "Law enforcement officer" means an officer or employee
2 of the state or a local governmental unit who, in his or her
3 capacity as an officer or employee, is vested by law with author-
4 ity to maintain public order, to make arrests for crimes, whether
5 that authority extends to all crimes or is limited to specific
6 crimes, or to prevent escapes from custody.

7 Sec. 2. Except as expressly authorized in this act, a law
8 enforcement officer acting in his or her capacity as a law
9 enforcement officer shall not use deadly force against another
10 person.

11 Sec. 3. A law enforcement officer acting in his or her
12 capacity as a law enforcement officer may use deadly force
13 against another individual if the officer honestly believes that
14 he or she or any other individual is in danger of being killed or
15 of receiving serious bodily harm and that deadly force is neces-
16 sary to defend against that danger.

17 Sec. 4. A law enforcement officer acting in his or her
18 capacity as a law enforcement officer may use deadly force
19 against another individual to arrest an individual, or to prevent
20 an individual from fleeing or escaping after he or she is arrest-
21 ed, if all of the following circumstances exist:

22 (a) The officer reasonably believes the individual has
23 engaged in life threatening conduct.

24 (b) The use of deadly force by the officer does not create a
25 substantial risk of injury to individuals not involved in the
26 alleged life threatening conduct.

(c) Either of the following applies:

(i) The officer reasonably believes that other reasonable efforts to effect the arrest have failed, are reasonably likely to fail, or would be unreasonably dangerous.

(ii) A substantial risk exists that, if the individual's apprehension is delayed, the individual will cause serious injury or death to another person.

Sec. 5. (1) A law enforcement officer acting in his or her capacity as a law enforcement officer may use deadly force against another individual to prevent the person's escape from custody, if the officer reasonably believes that other reasonable efforts to prevent the escape have failed, are reasonably likely to fail, or would be unreasonably dangerous.

(2) A law enforcement officer acting in his or her capacity as a law enforcement officer may use deadly force against another individual to prevent the individual's escape from a corrections center, if both of the following circumstances exist:

(a) The officer reasonably believes that other reasonable efforts to prevent the escape have failed, are reasonably likely to fail, or would be unreasonably dangerous.

(b) The officer reasonably believes the individual was assigned to the corrections center because of a conviction for an offense involving life threatening conduct.

Sec. 6. If a basis for the use of deadly force does not exist under section 4, a law enforcement officer acting in his or her capacity as a law enforcement officer may use deadly force to

1 apprehend an individual who has escaped from custody if all of
2 the following circumstances exist:

3 (a) The officer reasonably believes the individual was in
4 custody under a charge involving life threatening conduct or con-
5 viction for an offense involving life threatening conduct.

6 (b) The use of deadly force by the officer does not create a
7 substantial risk of injury to individuals not involved in pre-
8 venting the apprehension of the person.

9 (c) Either of the following applies:

10 (i) The officer reasonably believes that other reasonable
11 efforts to apprehend the individual have failed, are reasonably
12 likely to fail, or would be unreasonably dangerous.

13 (ii) A substantial risk exists that, if the individual's
14 apprehension is delayed, the person will cause serious injury or
15 death to another person.

16 Sec. 7. This act does not alter the law with respect to the
17 use of deadly force by a private individual in self-defense, in
18 defense of another individual, to prevent a crime, to effect an
19 arrest, or to prevent an escape from custody.