

See Judiciary 4/26 do Pass 5/11 (p. 2144)

Senate File 355
Judiciary and Law
Enforcement
Jesse, chair
Newhard
Branstad
Gentleman
Nielsen

FILED APR 18 1977

SENATE FILE 355

By COMMITTEE ON JUDICIARY
Approved 4/15 (p. 1096)

Passed Senate, Date 4-22-77 (p. 1150) Passed House, Date 5-19-77 (p. 2187)

Vote: Ayes 36 Nays 10 Vote: Ayes 87 Nays 5

Approved July 13, 1977

A BILL FOR

1 An Act changing the criminal code provision on use of
2 deadly force in making an arrest to conform to a
3 recent decision of the United States court of appeals
4 for the eighth circuit.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 355

1 Section 1. Chapter one thousand two hundred forty-five
2 (1245), Acts of the Sixty-sixth General Assembly, 1976 Session,
3 chapter two (2), section four hundred eleven (411), unnumbered
4 paragraph one (1), is amended to read as follows:

5 A peace officer, while making a lawful arrest, is justi-
6 fied in the use of any force which the peace officer reason-
7 ably believes to be necessary to effect the arrest or to de-
8 fend any person from bodily harm while making the arrest.

9 However, ~~the peace officer is justified in using deadly force~~
10 ~~only when he or she reasonably believes that such force is~~
11 ~~necessary to prevent death or serious injury to any person~~
12 ~~or when the peace officer reasonably believes that the per-~~
13 ~~son being arrested has committed a felony~~ use of deadly force
14 is only justified when a person cannot be captured any other
15 way and either

16 1. The person has used or threatened to use deadly force
17 in committing a felony or

18 2. The peace officer reasonably believes the person would
19 use deadly force against any person unless immediately appre-
20 hended.

21 Sec. 2. This Act is effective on the date set forth in
22 chapter one thousand two hundred forty-five (1245), Acts of
23 the Sixty-sixth General Assembly, 1976 Session, chapter four
24 (4), section five hundred twenty-nine (529).

25 EXPLANATION

26 This bill changes chapter 2, section 411 of the criminal
27 code revision to bring it within the guidelines of a recent
28 decision of the U.S. Court of Appeals for the Eighth Circuit,
29 Mattis v. Schnarr, 547 F.2d 1007 (1976). The case limits
30 a peace officer's use of deadly force in apprehending a fleeing
31 felon.

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LSB 15715
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SENATE FILE 355

Sec. 2. This Act is effective on the date set forth in chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter four (4), section five hundred twenty-nine (529).

AN ACT

CHANGING THE CRIMINAL CODE PROVISION ON USE OF DEADLY FORCE IN MAKING AN ARREST TO CONFORM TO A RECENT DECISION OF THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter two (2), section four hundred eleven (411), unnumbered paragraph one (1), is amended to read as follows:

A peace officer, while making a lawful arrest, is justified in the use of any force which the peace officer reasonably believes to be necessary to effect the arrest or to defend any person from bodily harm while making the arrest. However, ~~the peace officer is justified in using deadly force only when he or she reasonably believes that such force is necessary to prevent death or serious injury to any person or when the peace officer reasonably believes that the person being arrested has committed a felony~~ use of deadly force is only justified when a person cannot be captured any other way and either

1. The person has used or threatened to use deadly force in committing a felony or
2. The peace officer reasonably believes the person would use deadly force against any person unless immediately apprehended.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 355, Sixty-seventh General Assembly.

STEVEN C. GROSS
Secretary of the Senate

Approved July 13, 1977

ROBERT D. RAY
Governor