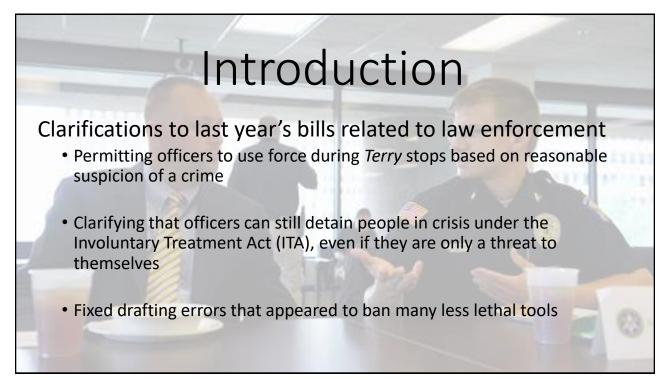


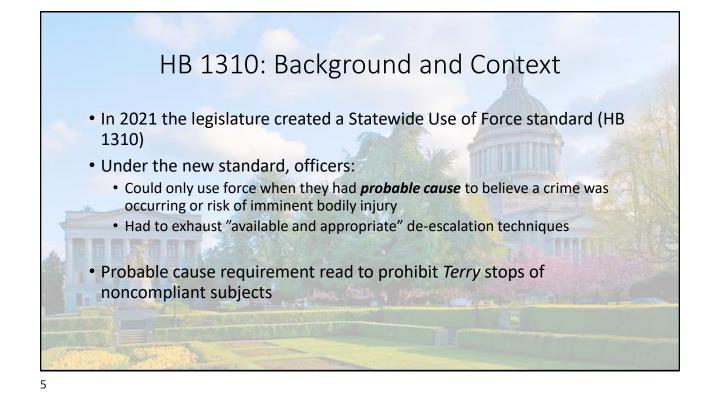
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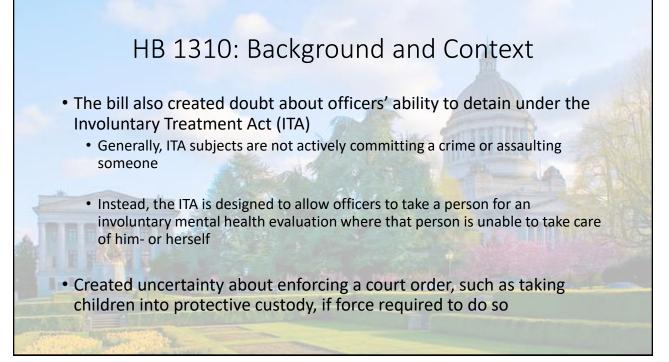


- This presentation is informational in nature and does not constitute legal advice
- No attorney-client relationship created
- We strongly recommend seeking advice from agency legal counsel regarding the application of these laws to your agencies









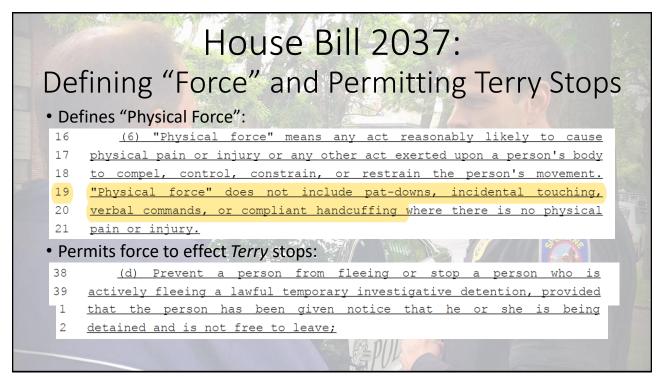
HB 1735 and HB 2037: Clarifying the Law

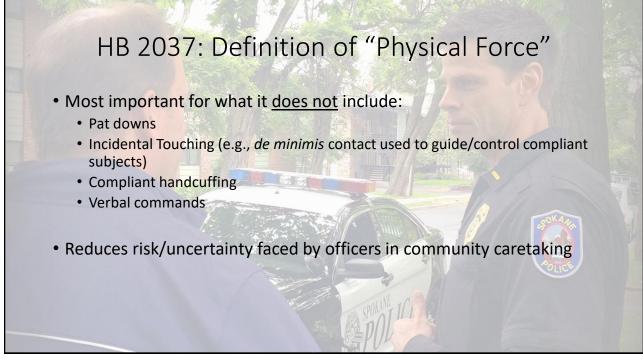
- Because of the concerns raised by law enforcement, cities, and other stakeholders, the legislature passed two bills:
 - HB 1735 focuses on behavioral health and community caretaking functions
 - HB 2037 focuses on enforcement practices and defines "physical force"

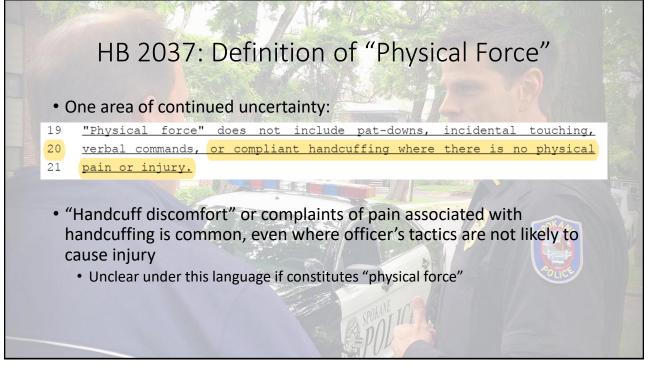
HB 2037: Definition of "Physical Force"

- Under HB 1310, no definition of "physical force," which meant that even incidental touching could constitute "force" requiring probable cause
- HB 2037's definition has two main parts:
 - "Reasonably likely to cause physical pain or injury"; and
 - "Act exerted upon a person's body to compel, control, constrain, or restrain" movement
- As a general matter, similar to CALEA and other standard law enforcement policies (e.g. SPD's Type I force and above)

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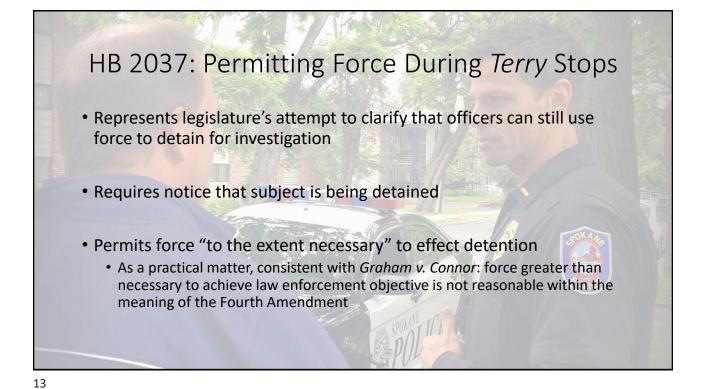


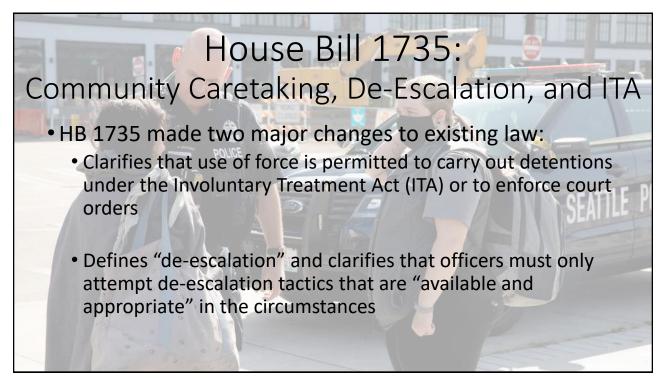




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HB 2037: Permitting Force During Terry Stops Officers can use force necessary to detain someone for investigation 28 (1) (((a))) <u>PHYSICAL FORCE</u>. Except as otherwise provided under 29 this section, a peace officer may use physical force against a person ((when)) to the extent necessary to: 30 ... (d) Prevent a person from fleeing or stop a person who is 38 actively fleeing a lawful temporary investigative detention, provided 39 that the person has been given notice that he 1 or she beina detained and is not free to leave; 2

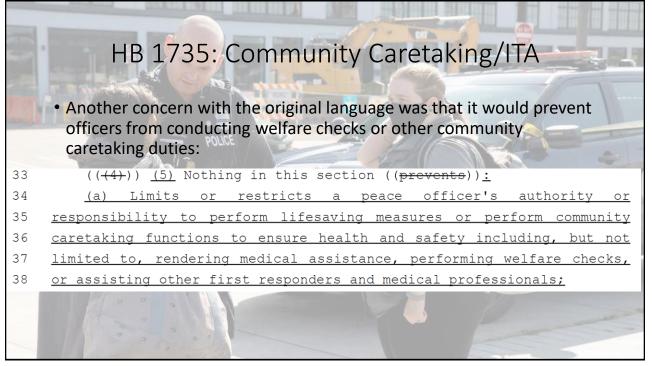


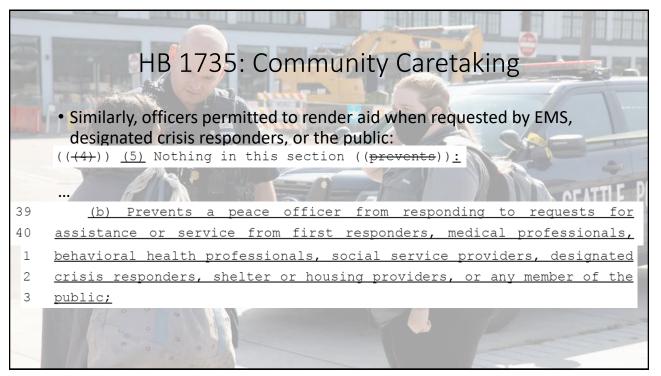


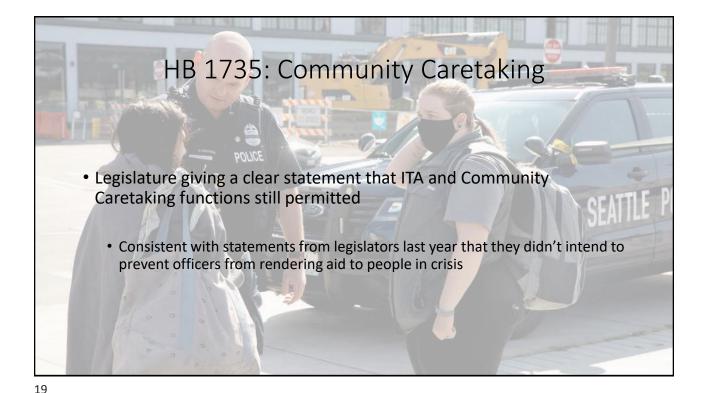
HB 1735: Community Caretaking/ITA
• Expanded HB 1310's Use of Force provisions to allow force to the degree necessary to:
33 (d) Take a person into custody, transport a person for evaluation
34 or treatment, or provide other assistance under chapter 10.77, 71.05,
35 <u>or 71.34 RCW;</u>
 Chapters 10.77, 71.05 (Involuntary Treatment Act), and 71.34 all relate to people suffering from mental illness or behavioral crisis
 Provision permits officers to use force when necessary to carry out detentions under the ITA and related provisions, even without probable cause that the individual in question is committing a crime

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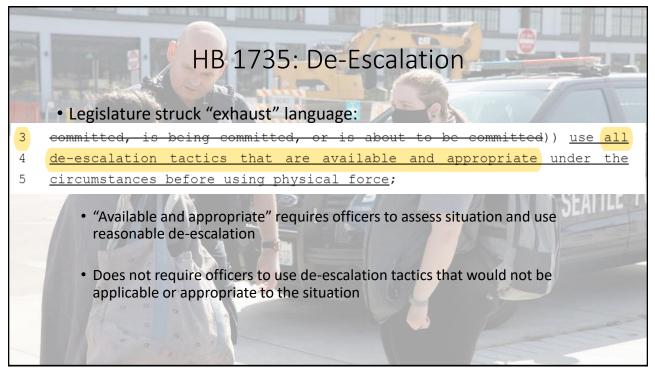
The second	HB 1735: Force During Detentions
1.31	Additional provisions to reduce uncertainty related to detentions
	authorized by law:
36	(e) Take a minor into protective custody when authorized or
37	directed by statute;
38	(f) Execute or enforce a court order authorizing or directing a
39	peace officer to take a person into custody;
1	(g) Execute a search warrant;
2	(h) Execute or enforce an oral directive issued by a judicial
3	officer in the courtroom or a written order where the court expressly
4	authorizes a peace officer to use physical force to execute or
5	enforce the directive or order; or
/	

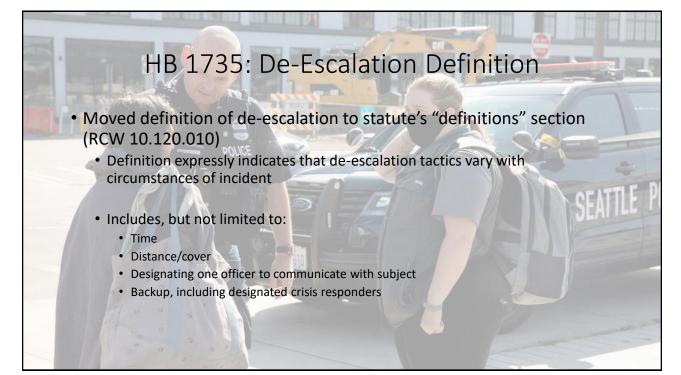


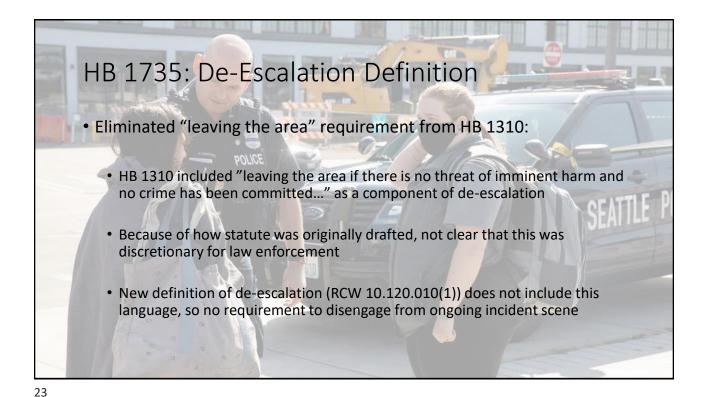


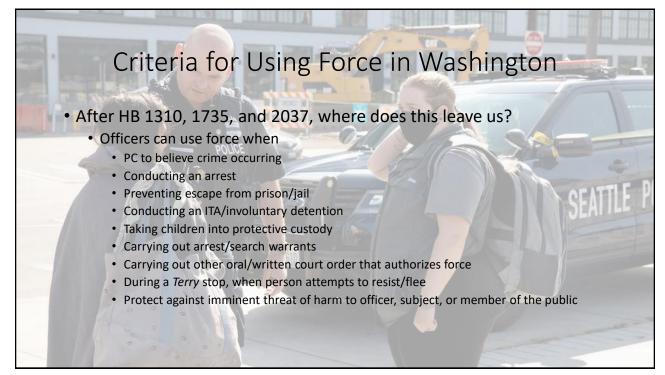


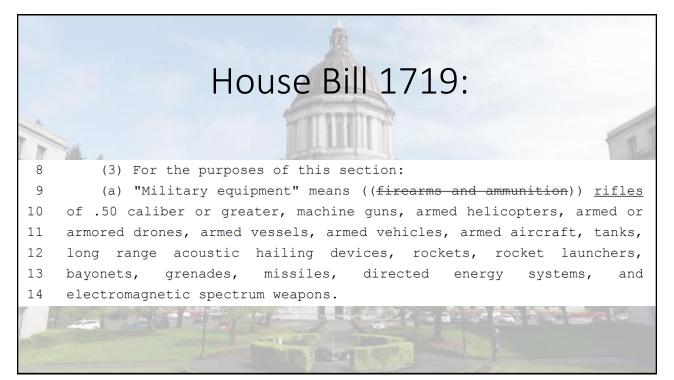
HB 1735: De-Escalation Original language of HB 1310 required officers to "exhaust available and appropriate de-escalation tactics" prior to force "Exhaust" language created concerns that officers had to run through a "checklist" of de-escalation tactics named in the statute Legislature made two major clarifications: Removing "exhaustion" language Open definition of "de-escalation" ensures that officers can use any appropriate de-escalation tactic, not just the ones named in statute

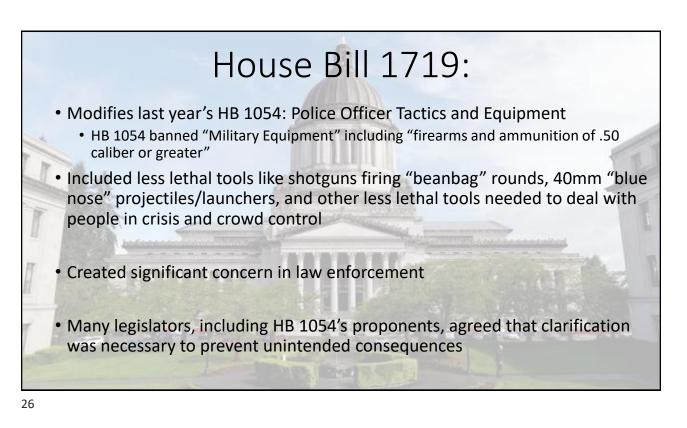


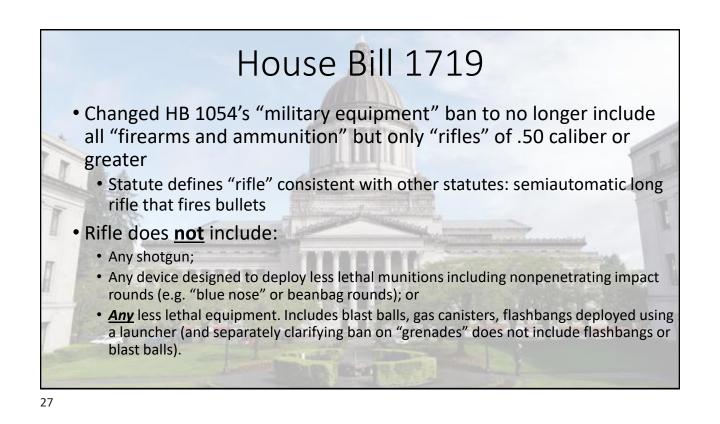


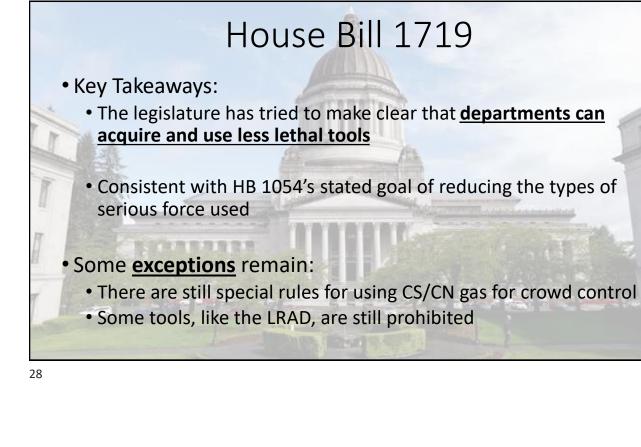












Key Takeaways

- Legislature attempting to address many of the big issues with its 2021 law enforcement reform bills
- Definitions of "physical force" and deescalation bring Washington state standard closer to model policies (CALEA, Lexipol)
- Community caretaking and ITA detentions permitted within new force framework
- Work with your city attorneys/department advisors to identify remaining issues and concerns—this may not be the last time the Legislature has to clarify



