

HOUSE BILL No. 1853

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-24-5; IC 34-51-2-20.

Synopsis: Civil action against property owners. Establishes a rebuttable presumption that: (1) an injury involving the use of force or deadly force suffered while a claimant is committing a crime on the property of another is the fault of or was caused by the claimant; and (2) the claimant waives any right to recover damages from the property owner. Establishes an affirmative defense available to the property owner in these actions.

Effective: July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Judiciary.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 1853



A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-24-5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 1999]:
- 4 **Chapter 5. Presumptions and Affirmative Defense in Wrongful**
- 5 **Use of Force Actions**
- 6 **Sec. 1. As used in this chapter, "crime" has the meaning set**
- 7 **forth in IC 35-41-1-6.**
- 8 **Sec. 2. This section applies to a cause of action based on an**
- 9 **intentional act of a defendant, if any part of an injury suffered by**
- 10 **a claimant:**
- 11 **(1) occurred while the claimant was committing a crime; and**
- 12 **(2) resulted from another person's use of force or deadly**
- 13 **force while the claimant was on property owned, leased, or**
- 14 **otherwise legally occupied by one (1) or more of the**
- 15 **defendants.**
- 16 **Sec. 3. The finder of fact shall presume that:**
- 17 **(1) the claimant's conduct caused the injury;**



1 (2) the claimant, by committing the crime, knowingly and
 2 voluntarily waived the claimant's right to recover damages
 3 sustained by the claimant while committing the crime; and
 4 (3) a defendant is entitled to an affirmative defense that the
 5 claimant's conduct in committing the crime bars recovery
 6 for damages arising from the defendant's use of force or
 7 deadly force.

8 **Sec. 4. A presumption under section 3(1) of this chapter is**
 9 **rebuttable.**

10 SECTION 2. IC 34-51-2-20 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 1999]: **Sec. 20. (a) As used in this section,**
 13 **"crime" means a felony or a misdemeanor.**

14 **(b) This section applies to a cause of action based on fault, if**
 15 **any part of an injury suffered by a claimant:**

16 (1) occurred while the claimant was committing a crime; and
 17 (2) resulted from another person's use of force or deadly
 18 force while the claimant was on property owned, leased, or
 19 otherwise legally occupied by one (1) or more of the
 20 defendants.

21 **(c) The finder of fact shall presume that:**

22 (1) the claimant's contributory fault is greater than the fault
 23 of all other persons whose fault proximately contributed to
 24 the claimant's damages;
 25 (2) the claimant, by committing the crime, knowingly and
 26 voluntarily waived the claimant's right to recover damages
 27 sustained by the claimant while committing the crime; and
 28 (3) a defendant is entitled to an affirmative defense that the
 29 claimant's conduct in committing the crime bars recovery
 30 for damages arising from the defendant's use of force or
 31 deadly force.

32 **(d) A presumption under subsection (c)(1) is rebuttable.**

33 SECTION 3. [EFFECTIVE JULY 1, 1999] **(a) IC 34-24-5 and**
 34 **IC 34-51-2-20, both as added by this act, apply to causes of action**
 35 **that accrue after June 30, 1999.**

36 **(b) This SECTION expires July 2, 2002.**

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