



February 24, 2006

**ENGROSSED
HOUSE BILL No. 1028**

DIGEST OF HB 1028 (Updated February 21, 2006 3:10 pm - DI 106)

Citations Affected: IC 35-41.

Synopsis: Firearms and self-defense. Specifies that a person: (1) is justified in using deadly force; and (2) does not have a duty to retreat; if the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. Specifies that a person: (1) is justified in using reasonable force, including deadly force, against another person; and (2) does not have a duty to retreat; if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle.

Effective: July 1, 2006.

Koch, Ulmer, Ruppel, Thomas

(SENATE SPONSORS — NUGENT, STEELE, DROZDA, HUME,
WATERMAN, WALTZ, MEEKS, BRAY, HERSHMAN)

January 12, 2006, read first time and referred to Committee on Public Safety and Homeland Security.

January 25, 2006, amended, reported — Do Pass.

January 30, 2006, read second time, amended, ordered engrossed.

January 31, 2006, engrossed.

February 1, 2006, read third time, passed. Yeas 82, nays 18.

SENATE ACTION

February 6, 2006, read first time and referred to Committee on Legislative Rules and Procedure.

February 9, 2006, pursuant to Senate Rule 65(b), reassigned to Committee on Corrections, Criminal, and Civil Matters.

February 23, 2006, amended, reported favorably — Do Pass.

C
o
p
y

EH 1028—LS 6327/DI 69+



February 24, 2006

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1028

A BILL FOR AN ACT to amend the Indiana Code concerning firearms and self-defense.

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

1 SECTION 1. IC 35-41-3-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person is
3 justified in using reasonable force against another person to protect the
4 person or a third person from what the person reasonably believes to be
5 the imminent use of unlawful force. However, a person:
6 (1) is justified in using deadly force; ~~only and~~
7 (2) **does not have a duty to retreat;**
8 if the person reasonably believes that that force is necessary to prevent
9 serious bodily injury to the person or a third person or the commission
10 of a forcible felony. No person in this state shall be placed in legal
11 jeopardy of any kind whatsoever for protecting the person or a third
12 person by reasonable means necessary.
13 (b) A person:
14 (1) is justified in using reasonable force, including deadly force,
15 against another person; **and**
16 (2) **does not have a duty to retreat;**
17 if the person reasonably believes that the force is necessary to prevent

C
O
P
Y

EH 1028—LS 6327/DI 69+



1 or terminate the other person's unlawful entry of or attack on the
 2 person's dwelling, ~~or~~ curtilage, **or occupied motor vehicle.**

3 (c) With respect to property other than a dwelling, ~~or~~ curtilage, **or**
 4 **an occupied motor vehicle**, a person is justified in using reasonable
 5 force against another person if the person reasonably believes that the
 6 force is necessary to immediately prevent or terminate the other
 7 person's trespass on or criminal interference with property lawfully in
 8 the person's possession, lawfully in possession of a member of the
 9 person's immediate family, or belonging to a person whose property the
 10 person has authority to protect. However, a person:

11 (1) is ~~not~~ justified in using deadly force; ~~unless and~~
 12 **(2) does not have a duty to retreat;**
 13 **only if** that force is justified under subsection (a).

14 (d) A person is justified in using reasonable force, including deadly
 15 force, against another person **and does not have a duty to retreat** if
 16 the person reasonably believes that the force is necessary to prevent or
 17 stop the other person from hijacking, attempting to hijack, or otherwise
 18 seizing or attempting to seize unlawful control of an aircraft in flight.
 19 For purposes of this subsection, an aircraft is considered to be in flight
 20 while the aircraft is:

- 21 (1) on the ground in Indiana:
 22 (A) after the doors of the aircraft are closed for takeoff; and
 23 (B) until the aircraft takes off;
 24 (2) in the airspace above Indiana; or
 25 (3) on the ground in Indiana:
 26 (A) after the aircraft lands; and
 27 (B) before the doors of the aircraft are opened after landing.

28 (e) Notwithstanding subsections (a), (b), and (c), a person is not
 29 justified in using force if:

- 30 (1) the person is committing or is escaping after the commission
 31 of a crime;
 32 (2) the person provokes unlawful action by another person with
 33 intent to cause bodily injury to the other person; or
 34 (3) the person has entered into combat with another person or is
 35 the initial aggressor unless the person withdraws from the
 36 encounter and communicates to the other person the intent to do
 37 so and the other person nevertheless continues or threatens to
 38 continue unlawful action.

39 (f) Notwithstanding subsection (d), a person is not justified in using
 40 force if the person:

- 41 (1) is committing, or is escaping after the commission of, a crime;
 42 (2) provokes unlawful action by another person, with intent to

C
O
P
Y



1 cause bodily injury to the other person; or
2 (3) continues to combat another person after the other person
3 withdraws from the encounter and communicates the other
4 person's intent to stop hijacking, attempting to hijack, or
5 otherwise seizing or attempting to seize unlawful control of an
6 aircraft in flight.

**C
o
p
y**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1028, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 31, delete "or".

Page 3, between lines 31 and 32, begin a new line block indented and insert:

"(4) on the property of an oil refinery; or".

Page 3, line 32, delete "(4)" and insert "(5)".

and when so amended that said bill do pass.

(Reference is to HB 1028 as introduced.)

RUPPEL, Chair

Committee Vote: yeas 7, nays 1.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1028 be amended to read as follows:

Page 3, delete lines 10 through 17, begin a new paragraph and insert:

"Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce a policy or rule that prohibits or has the effect of prohibiting an individual from possessing:

(1) a loaded or unloaded handgun; or

(2) an unloaded rifle or shotgun;

that is locked in the individual's motor vehicle while the motor vehicle is in or on the person's property."

(Reference is to HB 1028 as printed January 26, 2006.)

KOCH

C
o
p
y



SENATE MOTION

Madam President: I move that Senator Drozda be added as cosponsor of Engrossed House Bill 1028.

NUGENT

SENATE MOTION

Madam President: I move that Senators Hume, Waterman, Waltz, Meeks, Bray and Hershman be added as cosponsors of Engrossed House Bill 1028.

NUGENT

REPORT OF THE PRESIDENT
PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Engrossed House Bill 1028, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Corrections, Criminal, and Civil Matters.

GARTON

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1028, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 1, delete lines 1 through 17.
- Delete pages 2 through 3.
- Page 4, delete lines 1 through 4.

C
o
p
y



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1028 as reprinted January 31, 2006.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 2.

**C
o
p
y**

