



Reprinted
February 29, 2012

ENGROSSED SENATE BILL No. 1

DIGEST OF SB 1 (Updated February 28, 2012 6:18 pm - DI 106)

Citations Affected: IC 35-41.

Synopsis: Self defense. Specifies that a person may use reasonable
(Continued next page)

Effective: Upon passage.

**Young R Michael, Charbonneau, Steele,
Alting, Banks, Becker, Boots, Buck, Delph,
Eckerty, Gard, Glick, Grooms, Head,
Hershman, Holdman, Kruse, Landske,
Lawson C, Leising, Long, Merritt, Miller,
Mishler, Nugent, Paul, Schneider, Simpson,
Smith J, Tomes, Walker, Waltz, Waterman,
Wyss, Yoder, Lanane, Hume, Rogers, Zakas,
Bray**

(HOUSE SPONSORS — MCMILLIN, TURNER, SPEEDY)

January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 17, 2012, amended, reported favorably — Do Pass.

January 19, 2012, read second time, ordered engrossed.

January 20, 2012, engrossed.

January 23, 2012, read third time, passed. Yeas 45, nays 5.

HOUSE ACTION

January 31, 2012, read first time and referred to Committee on Courts and Criminal Code.

February 23, 2012, amended, reported — Do Pass.

February 28, 2012, read second time, amended, ordered engrossed.

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force against any other person in certain circumstances. Provides that a person is justified in using reasonable force against a law enforcement officer if the person reasonably believes the force is necessary to: (1) protect the person or a third person from unlawful force; (2) prevent or terminate the law enforcement officer's unlawful entry into the person's dwelling; or (3) prevent or terminate the law enforcement officer's criminal interference with property lawfully in the person's possession. Specifies that a person is not justified in using force against a law enforcement officer if: (1) the person is committing or is escaping after the commission of a crime; (2) the person provokes action by the law enforcement officer with intent to injure the law enforcement officer; (3) the person has entered into combat with the law enforcement officer or is the initial aggressor; or (4) the person reasonably believes the law enforcement officer acting lawfully or is engaged in the lawful execution of the law enforcement officer's official duties. Provides that a person is not justified in using deadly force against a law enforcement officer who the person knows or reasonably should know is a law enforcement officer unless: (1) the person reasonably believes that the law enforcement officer is acting unlawfully or is not engaged in the execution of the officer's official duties; and (2) the force is reasonably necessary to prevent serious bodily injury to the person or a third person.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 1

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

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

1 SECTION 1. IC 35-41-3-2, AS AMENDED BY P.L.189-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) **In enacting this section, the general
4 assembly finds and declares that it is the policy of this state to
5 recognize the unique character of a citizen's home and to ensure
6 that a citizen feels secure in his or her own home against unlawful
7 intrusion by any other person (as defined in IC 35-41-1-22(a)). The
8 general assembly also finds and declares that it is the policy of this
9 state that people have a right to defend themselves and third
10 parties from physical harm and crime. The purpose of this section
11 is to provide the citizens of this state with a lawful means of
12 carrying out this policy.**

13 (b) A person is justified in using reasonable force against ~~another~~
14 **any other** person to protect the person or a third person from what the
15 person reasonably believes to be the imminent use of unlawful force.
16 However, a person:

17 (1) is justified in using deadly force; and

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1 (2) does not have a duty to retreat;
 2 if the person reasonably believes that that force is necessary to prevent
 3 serious bodily injury to the person or a third person or the commission
 4 of a forcible felony. No person in this state shall be placed in legal
 5 jeopardy of any kind whatsoever for protecting the person or a third
 6 person by reasonable means necessary.

7 ~~(b)~~ (c) A person:

8 (1) is justified in using reasonable force, including deadly force,
 9 against ~~another~~ **any other** person; and

10 (2) does not have a duty to retreat;

11 if the person reasonably believes that the force is necessary to prevent
 12 or terminate the other person's unlawful entry of or attack on the
 13 person's dwelling, curtilage, or occupied motor vehicle.

14 ~~(c)~~ (d) With respect to property other than a dwelling, curtilage, or
 15 an occupied motor vehicle, a person is justified in using reasonable
 16 force against ~~another~~ **any other** person if the person reasonably
 17 believes that the force is necessary to immediately prevent or terminate
 18 the other person's trespass on or criminal interference with property
 19 lawfully in the person's possession, lawfully in possession of a member
 20 of the person's immediate family, or belonging to a person whose
 21 property the person has authority to protect. However, a person:

22 (1) is justified in using deadly force; and

23 (2) does not have a duty to retreat;

24 only if that force is justified under subsection ~~(a)~~; **(b)**.

25 ~~(d)~~ (e) A person is justified in using reasonable force, including
 26 deadly force, against ~~another~~ **any other** person and does not have a
 27 duty to retreat if the person reasonably believes that the force is
 28 necessary to prevent or stop the other person from hijacking,
 29 attempting to hijack, or otherwise seizing or attempting to seize
 30 unlawful control of an aircraft in flight. For purposes of this subsection,
 31 an aircraft is considered to be in flight while the aircraft is:

32 (1) on the ground in Indiana:

33 (A) after the doors of the aircraft are closed for takeoff; and

34 (B) until the aircraft takes off;

35 (2) in the airspace above Indiana; or

36 (3) on the ground in Indiana:

37 (A) after the aircraft lands; and

38 (B) before the doors of the aircraft are opened after landing.

39 ~~(e)~~ (f) Notwithstanding subsections ~~(a)~~; (b) and ~~(c)~~; **through (d)**, a
 40 person is not justified in using force if:

41 (1) the person is committing or is escaping after the commission
 42 of a crime;

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- 1 (2) the person provokes unlawful action by another person with
- 2 intent to cause bodily injury to the other person; or
- 3 (3) the person has entered into combat with another person or is
- 4 the initial aggressor unless the person withdraws from the
- 5 encounter and communicates to the other person the intent to do
- 6 so and the other person nevertheless continues or threatens to
- 7 continue unlawful action.

8 ~~(f)~~ **(g)** Notwithstanding subsection ~~(d)~~; **(e)**, a person is not justified
 9 in using force if the person:

- 10 (1) is committing, or is escaping after the commission of, a crime;
- 11 (2) provokes unlawful action by another person, with intent to
- 12 cause bodily injury to the other person; or
- 13 (3) continues to combat another person after the other person
- 14 withdraws from the encounter and communicates the other
- 15 person's intent to stop hijacking, attempting to hijack, or
- 16 otherwise seizing or attempting to seize unlawful control of an
- 17 aircraft in flight.

18 **(h) A person is justified in using reasonable force against any**
 19 **law enforcement officer if the person reasonably believes the force**
 20 **is necessary to:**

- 21 **(1) protect the person or a third person from what the person**
- 22 **reasonably believes to be the imminent use of unlawful force;**
- 23 **(2) prevent or terminate the law enforcement officer's**
- 24 **unlawful entry of or attack on the person's dwelling, curtilage,**
- 25 **or occupied motor vehicle; or**
- 26 **(3) prevent or terminate the law enforcement officer's**
- 27 **unlawful trespass on or criminal interference with property**
- 28 **lawfully in the person's possession, lawfully in possession of a**
- 29 **member of the person's immediate family, or belonging to a**
- 30 **person whose property the person has authority to protect.**

31 **(i) Notwithstanding subsection (h), a person is not justified in**
 32 **using force against a law enforcement officer if:**

- 33 **(1) the person is committing or is escaping after the**
- 34 **commission of a crime;**
- 35 **(2) the person provokes action by the law enforcement officer**
- 36 **with intent to cause bodily injury to the law enforcement**
- 37 **officer;**
- 38 **(3) the person has entered into combat with the law**
- 39 **enforcement officer or is the initial aggressor, unless the**
- 40 **person withdraws from the encounter and communicates to**
- 41 **the law enforcement officer the intent to do so and the law**
- 42 **enforcement officer nevertheless continues or threatens to**

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1 **continue unlawful action: or**
2 **(4) the person reasonably believes the law enforcement officer**
3 **is:**
4 **(A) acting lawfully, or**
5 **(B) engaged in the lawful execution of the law enforcement**
6 **officer's official duties.**
7 **(j) A person is not justified in using deadly force against a law**
8 **enforcement officer who the person knows or reasonably should**
9 **know is a law enforcement officer unless:**
10 **(1) the person reasonably believes that the law enforcement**
11 **officer is:**
12 **(A) acting unlawfully; or**
13 **(B) not engaged in the execution of the officer's official**
14 **duties; and**
15 **(2) the force is reasonably necessary to prevent serious bodily**
16 **injury to the person or a third person.**
17 **SECTION 2. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 1, 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 11 through 12.

Page 1, line 13, delete "(2)" and insert "(1)".

Page 1, line 16, delete "(3)" and insert "(2)".

Page 2, line 2, delete "(4)" and insert "(3)".

Page 2, line 4, delete "(5)" and insert "(4)".

Page 2, line 6, delete "(6)" and insert "(5)".

and when so amended that said bill do pass.

(Reference is to SB 1 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 1, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 1 as printed January 18, 2012.)

STEUERWALD, Chair

Committee Vote: yeas 9, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

(Reference is to ESB 1 as printed February 24, 2012.)

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