

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 1**

Citations Affected: IC 35-41-3-2.

Synopsis: Self-defense. Conference committee report for ESB 1. Specifies that a person may use reasonable force against any other person in certain circumstances. Provides that a person is justified in using reasonable force against a public servant 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 public servant's unlawful entry into the person's dwelling; or (3) prevent or terminate the public servant's criminal interference with property lawfully in the person's possession. Specifies that a person is not justified in using force against a public servant if: (1) the person is committing or is escaping after the commission of a crime; (2) the person provokes action by the public servant with intent to injure the public servant; (3) the person has entered into combat with the public servant or is the initial aggressor; or (4) the person reasonably believes the public servant is acting lawfully or is engaged in the lawful execution of the public servant's official duties. Provides that a person is not justified in using deadly force against a public servant whom the person knows or reasonably should know is a public servant unless: (1) the person reasonably believes that the public servant is acting unlawfully or is not engaged in the execution of the public servant's official duties; and (2) the force is reasonably necessary to prevent serious bodily injury to the person or a third person. **(This conference committee report does the following: Defines "public servant" and replaces references to "law enforcement officer" with "public servant.")**

Effective: Upon passage.

Adopted Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 1 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 35-41-3-2, AS AMENDED BY P.L.189-2006,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 2. (a) **In enacting this section, the general
5 assembly finds and declares that it is the policy of this state to
6 recognize the unique character of a citizen's home and to ensure
7 that a citizen feels secure in his or her own home against unlawful
8 intrusion by another individual or a public servant. By reaffirming
9 the long standing right of a citizen to protect his or her home
10 against unlawful intrusion, however, the general assembly does not
11 intend to diminish in any way the other robust self defense rights
12 that citizens of this state have always enjoyed. Accordingly, the
13 general assembly also finds and declares that it is the policy of this
14 state that people have a right to defend themselves and third
15 parties from physical harm and crime. The purpose of this section
16 is to provide the citizens of this state with a lawful means of
17 carrying out this policy.**
18 (b) **As used in this section, "public servant" means a person
19 described in IC 35-41-1-17, IC 35-31.5-2-129, or IC 35-31.5-2-185.**
20 (c) **A person is justified in using reasonable force against another
21 any other person to protect the person or a third person from what the
22 person reasonably believes to be the imminent use of unlawful force.**

- 1 However, a person:
- 2 (1) is justified in using deadly force; and
- 3 (2) does not have a duty to retreat;
- 4 if the person reasonably believes that that force is necessary to prevent
- 5 serious bodily injury to the person or a third person or the commission
- 6 of a forcible felony. No person in this state shall be placed in legal
- 7 jeopardy of any kind whatsoever for protecting the person or a third
- 8 person by reasonable means necessary.
- 9 ~~(b)~~ **(d)** A person:
- 10 (1) is justified in using reasonable force, including deadly force,
- 11 against ~~another~~ **any other** person; and
- 12 (2) does not have a duty to retreat;
- 13 if the person reasonably believes that the force is necessary to prevent
- 14 or terminate the other person's unlawful entry of or attack on the
- 15 person's dwelling, curtilage, or occupied motor vehicle.
- 16 ~~(c)~~ **(e)** With respect to property other than a dwelling, curtilage, or
- 17 an occupied motor vehicle, a person is justified in using reasonable
- 18 force against ~~another~~ **any other** person if the person reasonably
- 19 believes that the force is necessary to immediately prevent or terminate
- 20 the other person's trespass on or criminal interference with property
- 21 lawfully in the person's possession, lawfully in possession of a member
- 22 of the person's immediate family, or belonging to a person whose
- 23 property the person has authority to protect. However, a person:
- 24 (1) is justified in using deadly force; and
- 25 (2) does not have a duty to retreat;
- 26 only if that force is justified under subsection ~~(a)~~ **(c)**.
- 27 ~~(d)~~ **(f)** A person is justified in using reasonable force, including
- 28 deadly force, against ~~another~~ **any other** person and does not have a
- 29 duty to retreat if the person reasonably believes that the force is
- 30 necessary to prevent or stop the other person from hijacking,
- 31 attempting to hijack, or otherwise seizing or attempting to seize
- 32 unlawful control of an aircraft in flight. For purposes of this subsection,
- 33 an aircraft is considered to be in flight while the aircraft is:
- 34 (1) on the ground in Indiana:
- 35 (A) after the doors of the aircraft are closed for takeoff; and
- 36 (B) until the aircraft takes off;
- 37 (2) in the airspace above Indiana; or
- 38 (3) on the ground in Indiana:
- 39 (A) after the aircraft lands; and
- 40 (B) before the doors of the aircraft are opened after landing.
- 41 ~~(e)~~ **(g)** Notwithstanding subsections ~~(a)~~, ~~(b)~~ and ~~(c)~~, **(c) through (e)**,
- 42 a person is not justified in using force if:
- 43 (1) the person is committing or is escaping after the commission
- 44 of a crime;
- 45 (2) the person provokes unlawful action by another person with
- 46 intent to cause bodily injury to the other person; or
- 47 (3) the person has entered into combat with another person or is
- 48 the initial aggressor unless the person withdraws from the
- 49 encounter and communicates to the other person the intent to do
- 50 so and the other person nevertheless continues or threatens to

- 1 continue unlawful action.
- 2 ~~(h)~~ **(h)** Notwithstanding subsection ~~(d)~~; **(f)**, a person is not justified
- 3 in using force if the person:
- 4 (1) is committing, or is escaping after the commission of, a crime;
- 5 (2) provokes unlawful action by another person, with intent to
- 6 cause bodily injury to the other person; or
- 7 (3) continues to combat another person after the other person
- 8 withdraws from the encounter and communicates the other
- 9 person's intent to stop hijacking, attempting to hijack, or
- 10 otherwise seizing or attempting to seize unlawful control of an
- 11 aircraft in flight.
- 12 **(i) A person is justified in using reasonable force against a**
- 13 **public servant if the person reasonably believes the force is**
- 14 **necessary to:**
- 15 **(1) protect the person or a third person from what the person**
- 16 **reasonably believes to be the imminent use of unlawful force;**
- 17 **(2) prevent or terminate the public servant's unlawful entry**
- 18 **of or attack on the person's dwelling, curtilage, or occupied**
- 19 **motor vehicle; or**
- 20 **(3) prevent or terminate the public servant's unlawful**
- 21 **trespass on or criminal interference with property lawfully in**
- 22 **the person's possession, lawfully in possession of a member of**
- 23 **the person's immediate family, or belonging to a person whose**
- 24 **property the person has authority to protect.**
- 25 **(j) Notwithstanding subsection (i), a person is not justified in**
- 26 **using force against a public servant if:**
- 27 **(1) the person is committing or is escaping after the**
- 28 **commission of a crime;**
- 29 **(2) the person provokes action by the public servant with**
- 30 **intent to cause bodily injury to the public servant;**
- 31 **(3) the person has entered into combat with the public servant**
- 32 **or is the initial aggressor, unless the person withdraws from**
- 33 **the encounter and communicates to the public servant the**
- 34 **intent to do so and the public servant nevertheless continues**
- 35 **or threatens to continue unlawful action; or**
- 36 **(4) the person reasonably believes the public servant is:**
- 37 **(A) acting lawfully; or**
- 38 **(B) engaged in the lawful execution of the public servant's**
- 39 **official duties.**
- 40 **(k) A person is not justified in using deadly force against a**
- 41 **public servant whom the person knows or reasonably should know**
- 42 **is a public servant unless:**
- 43 **(1) the person reasonably believes that the public servant is:**
- 44 **(A) acting unlawfully; or**
- 45 **(B) not engaged in the execution of the public servant's**
- 46 **official duties; and**
- 47 **(2) the force is reasonably necessary to prevent serious bodily**
- 48 **injury to the person or a third person.**
- 49 **SECTION 2. An emergency is declared for this act.**

(Reference is to ESB 1 as reprinted February 29, 2012.)

Conference Committee Report
on
Engrossed Senate Bill 1

Signed by:

Senator Young R Michael
Chairperson

Representative McMillin

Senator Delph

Representative Steuerwald

Senate Conferees

House Conferees