



February 12, 2021

SENATE BILL No. 199

DIGEST OF SB 199 (Updated February 9, 2021 12:30 pm - DI 106)

Citations Affected: IC 35-41.

Synopsis: Self-defense. Specifies that "reasonable force" includes the pointing of a loaded or unloaded firearm for purposes of arrest or to prevent an escape, or for self-defense when used to prevent or terminate the an unlawful entry of or attack on a dwelling, curtilage, fixed place of business, motor vehicle, or aircraft in flight.

Effective: July 1, 2021.

Young M, Garten

January 5, 2021, read first time and referred to Committee on Corrections and Criminal Law.
February 11, 2021, amended, reported favorably — Do Pass.

SB 199—LS 7102/DI 106



February 12, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 199

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.107-2019,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: 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 that a
6 citizen feels secure in his or her own home against unlawful intrusion
7 by another individual or a public servant. By reaffirming the long
8 standing right of a citizen to protect his or her home against unlawful
9 intrusion, however, the general assembly does not intend to diminish
10 in any way the other robust self defense rights that citizens of this state
11 have always enjoyed. Accordingly, the general assembly also finds and
12 declares that it is the policy of this state that people have a right to
13 defend themselves and third parties from physical harm and crime. The
14 purpose of this section is to provide the citizens of this state with a
15 lawful means of carrying out this policy. Provisions concerning civil
16 immunity for the justified use of force as defined in this section are
17 codified under IC 34-30-31.

SB 199—LS 7102/DI 106



1 (b) As used in this section:

2 (1) "public servant" means a person described in
3 IC 35-31.5-2-129 or IC 35-31.5-2-185; **and**

4 (2) **"reasonable force" includes the pointing of a loaded or**
5 **unloaded firearm when used to prevent or terminate the other**
6 **person's unlawful entry of or attack on the person's dwelling,**
7 **curtilage, fixed place of business, motor vehicle, or aircraft in**
8 **flight.**

9 (c) A person is justified in using reasonable force against any other
10 person to protect the person or a third person from what the person
11 reasonably believes to be the imminent use of unlawful force.
12 However, a person:

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

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

15 if the person reasonably believes that that force is necessary to prevent
16 serious bodily injury to the person or a third person or the commission
17 of a forcible felony. No person, employer, or estate of a person in this
18 state shall be placed in legal jeopardy of any kind whatsoever for
19 protecting the person or a third person by reasonable means necessary.

20 (d) A person:

21 (1) is justified in using reasonable force, including deadly force,
22 against any other person; and

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

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

27 (e) With respect to property other than a dwelling, curtilage, or an
28 occupied motor vehicle, a person is justified in using reasonable force
29 against any other person if the person reasonably believes that the force
30 is necessary to immediately prevent or terminate the other person's
31 trespass on or criminal interference with property lawfully in the
32 person's possession, lawfully in possession of a member of the person's
33 immediate family, or belonging to a person whose property the person
34 has authority to protect. However, a person:

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

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

37 only if that force is justified under subsection (c).

38 (f) A person is justified in using reasonable force, including deadly
39 force, against any other person and does not have a duty to retreat if the
40 person reasonably believes that the force is necessary to prevent or stop
41 the other person from hijacking, attempting to hijack, or otherwise
42 seizing or attempting to seize unlawful control of an aircraft in flight.



- 1 For purposes of this subsection, an aircraft is considered to be in flight
2 while the aircraft is:
- 3 (1) on the ground in Indiana:
 - 4 (A) after the doors of the aircraft are closed for takeoff; and
 - 5 (B) until the aircraft takes off;
 - 6 (2) in the airspace above Indiana; or
 - 7 (3) on the ground in Indiana:
 - 8 (A) after the aircraft lands; and
 - 9 (B) before the doors of the aircraft are opened after landing.
- 10 (g) Notwithstanding subsections (c) through (e), a person is not
11 justified in using force if:
- 12 (1) the person is committing or is escaping after the commission
13 of a crime;
 - 14 (2) the person provokes unlawful action by another person with
15 intent to cause bodily injury to the other person; or
 - 16 (3) the person has entered into combat with another person or is
17 the initial aggressor unless the person withdraws from the
18 encounter and communicates to the other person the intent to do
19 so and the other person nevertheless continues or threatens to
20 continue unlawful action.
- 21 (h) Notwithstanding subsection (f), a person is not justified in using
22 force if the person:
- 23 (1) is committing, or is escaping after the commission of, a crime;
 - 24 (2) provokes unlawful action by another person, with intent to
25 cause bodily injury to the other person; or
 - 26 (3) continues to combat another person after the other person
27 withdraws from the encounter and communicates the other
28 person's intent to stop hijacking, attempting to hijack, or
29 otherwise seizing or attempting to seize unlawful control of an
30 aircraft in flight.
- 31 (i) A person is justified in using reasonable force against a public
32 servant if the person reasonably believes the force is necessary to:
- 33 (1) protect the person or a third person from what the person
34 reasonably believes to be the imminent use of unlawful force;
 - 35 (2) prevent or terminate the public servant's unlawful entry of or
36 attack on the person's dwelling, curtilage, or occupied motor
37 vehicle; or
 - 38 (3) prevent or terminate the public servant's unlawful trespass on
39 or criminal interference with property lawfully in the person's
40 possession, lawfully in possession of a member of the person's
41 immediate family, or belonging to a person whose property the
42 person has authority to protect.



1 (j) Notwithstanding subsection (i), a person is not justified in using
2 force against a public servant if:

3 (1) the person is committing or is escaping after the commission
4 of a crime;

5 (2) the person provokes action by the public servant with intent to
6 cause bodily injury to the public servant;

7 (3) the person has entered into combat with the public servant or
8 is the initial aggressor, unless the person withdraws from the
9 encounter and communicates to the public servant the intent to do
10 so and the public servant nevertheless continues or threatens to
11 continue unlawful action; or

12 (4) the person reasonably believes the public servant is:

13 (A) acting lawfully; or

14 (B) engaged in the lawful execution of the public servant's
15 official duties.

16 (k) A person is not justified in using deadly force against a public
17 servant whom the person knows or reasonably should know is a public
18 servant unless:

19 (1) the person reasonably believes that the public servant is:

20 (A) acting unlawfully; or

21 (B) not engaged in the execution of the public servant's official
22 duties; and

23 (2) the force is reasonably necessary to prevent serious bodily
24 injury to the person or a third person.

25 SECTION 2. IC 35-41-3-3 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. **(a) As used in this
27 section, "reasonable force" includes the pointing of a loaded or
28 unloaded firearm.**

29 ~~(a)~~ **(b)** A person other than a law enforcement officer is justified in
30 using reasonable force against another person to effect an arrest or
31 prevent the other person's escape if:

32 (1) a felony has been committed; and

33 (2) there is probable cause to believe the other person committed
34 that felony.

35 However, such a person is not justified in using deadly force unless that
36 force is justified under section 2 of this chapter.

37 ~~(b)~~ **(c)** A law enforcement officer is justified in using reasonable
38 force if the officer reasonably believes that the force is necessary to
39 effect a lawful arrest. However, an officer is justified in using deadly
40 force only if the officer:

41 (1) has probable cause to believe that ~~that~~ deadly force is
42 necessary:



- 1 (A) to prevent the commission of a forcible felony; or
 2 (B) to effect an arrest of a person who the officer has probable
 3 cause to believe poses a threat of serious bodily injury to the
 4 officer or a third person; and
 5 (2) has given a warning, if feasible, to the person against whom
 6 the deadly force is to be used.
- 7 ~~(e)~~ **(d)** A law enforcement officer making an arrest under an invalid
 8 warrant is justified in using force as if the warrant was valid, unless the
 9 officer knows that the warrant is invalid.
- 10 ~~(d)~~ **(e)** A law enforcement officer who has an arrested person in
 11 custody is justified in using the same force to prevent the escape of the
 12 arrested person from custody that the officer would be justified in using
 13 if the officer was arresting that person. However, an officer is justified
 14 in using deadly force only if the officer:
- 15 (1) has probable cause to believe that deadly force is necessary to
 16 prevent the escape from custody of a person who the officer has
 17 probable cause to believe poses a threat of serious bodily injury
 18 to the officer or a third person; and
 19 (2) has given a warning, if feasible, to the person against whom
 20 the deadly force is to be used.
- 21 ~~(e)~~ **(f)** A guard or other official in a penal facility or a law
 22 enforcement officer is justified in using reasonable force, including
 23 deadly force, if the officer has probable cause to believe that the force
 24 is necessary to prevent the escape of a person who is detained in the
 25 penal facility.
- 26 ~~(f)~~ **(g)** Notwithstanding subsection ~~(b)~~; ~~(d)~~; ~~or~~ ~~(e)~~; **(c)**, **(e)**, **or** **(f)**, a
 27 law enforcement officer who is a defendant in a criminal prosecution
 28 has the same right as a person who is not a law enforcement officer to
 29 assert self-defense under IC 35-41-3-2.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 199, 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 2, line 5, delete "firearm." and insert "**firearm when used to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, fixed place of business, motor vehicle, or aircraft in flight.**".

and when so amended that said bill do pass.

(Reference is to SB 199 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 5, Nays 2.

