

ENROLLED ACT NO. 63, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2018 BUDGET SESSION

AN ACT relating to crimes and civil liability; establishing and modifying when defensive force can be used; establishing when no duty to retreat exists; providing immunity from civil liability for reasonable use of defensive force; providing for an award of costs if a civil lawsuit is filed as specified; providing that the use of reasonable defensive force does not subject a person to criminal prosecution as specified; providing a definition; providing conforming amendments; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 6-1-204 and 6-2-602 are amended to read:

**6-1-204. Immunity from civil action for justifiable use of force; attorney fees.**

(a) Except as provided by W.S. 6-1-103(a), a person who uses ~~force as reasonably necessary in defense of his person, property or abode or to prevent injury to another~~ reasonable defensive force pursuant to W.S. 6-2-602 is immune from civil action for the use of the force.

(b) In a civil action filed against a person related to the person's use of defensive force, the person may file a motion with the court asserting that the person used reasonable defensive force under W.S. 6-2-602. Upon the filing of the motion the court shall hold a hearing prior to trial and shall grant the person's motion if he proves by a preponderance of the evidence that he used reasonable defensive force under W.S. 6-2-602.

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(c) A court shall award reasonable attorney fees, court costs, compensation for any loss of income and all other expenses incurred by a person in defense of any civil action arising from the person's use of reasonable defensive force pursuant to W.S. 6-2-602 if the court finds that the defendant is immune from civil action under subsection (a) of this section.

**6-2-602. Use of force in self defense; no duty to retreat.**

(a) The use of defensive force whether actual or threatened, is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more, including deadly force if necessary to prevent imminent death or serious bodily injury to the person employing the deadly force or to another person. As used in this subsection, "necessary to prevent" includes a necessity that arises from an honest belief that the danger exists whether the danger is real or apparent.

~~(a)~~ (b) A person is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to himself or another when using defensive force, ~~that is intended or likely to cause death or serious bodily injury to another~~ including deadly force if:

(i) The intruder against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, another's home or habitation or, if that intruder had removed or was attempting to remove another against his will from his home or habitation; and

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(ii) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring.

~~(b)~~(c) The presumption set forth in subsection ~~(a)~~(b) of this section does not apply if:

(i) The person against whom the defensive force is used has a right to be in or is a lawful resident of the home or habitation, such as an owner, lessee or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person;

(ii) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

(iii) The person against whom the defensive force is used is a peace officer or employee of the Wyoming department of corrections who enters or attempts to enter another's home or habitation in the performance of his official duties.

~~(e)~~(d) A person who unlawfully and by force enters or attempts to enter another's home or habitation is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

(e) A person who is attacked in any place where the person is lawfully present shall not have a duty to retreat before using reasonable defensive force pursuant to subsection (a) of this section provided that he is not the initial aggressor and is not engaged in illegal activity.

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(f) A person who uses reasonable defensive force as defined by subsection (a) of this section shall not be criminally prosecuted for that use of reasonable defensive force.

~~(d)~~ (g) As used in this section:

(i) "Habitation" means any structure which is designed or adapted for overnight accommodation, including, but not limited to, buildings, modular units, trailers, campers and tents;

(ii) "Home" means any occupied residential dwelling place~~;~~.

(iii) "Deadly force" means force that is intended or likely to cause death or serious bodily injury.

ORIGINAL HOUSE  
BILL NO. HB0168

ENGROSSED

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**Section 2.** This act is effective July 1, 2018.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk