

SENATE FILE NO. SF0071

Stand your ground.

Sponsored by: Senator(s) Bouchard, Driskill, Hicks, Meier and Moniz and Representative(s) Barlow, Biteman, Blackburn, Blake, Burkhart, Clem, Edwards, Gray, Hallinan, Halverson, Jennings, Laursen, Lindholm, Lone, Miller, Olsen, Piiparinen, Salazar, Steinmetz and Winters

A BILL

for

1 AN ACT relating to crimes and civil liability; establishing
2 and modifying when defensive force can be used;
3 establishing when no duty to retreat exists; providing
4 immunity from civil liability for reasonable use of
5 defensive force; providing for an award of costs if a civil
6 lawsuit is filed as specified; providing a definition;
7 providing conforming amendments; and providing for an
8 effective date.

9

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

11

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

1

2 **6-1-204. Immunity from civil action for justifiable**
3 **use of force; attorney fees.**

4

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

10

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

19

20 (c) A court shall award reasonable attorney fees,
21 court costs, compensation for any loss of income and all
22 other expenses incurred by a person in defense of any civil
23 action arising from the person's use of reasonable

1 defensive force pursuant to W.S. 6-2-602 if the court finds
2 that the defendant is immune from civil action under
3 subsection (a) of this section.
4

5 **6-2-602. Use of force in self defense; no duty to**
6 **retreat.**
7

8 (a) The use of defensive force is whether actual or
9 threatened, reasonable when it is the defensive force that
10 a reasonable person in like circumstances would judge
11 necessary to prevent an injury or loss, and no more,
12 including deadly force if necessary to prevent imminent
13 death or serious bodily injury to the person employing the
14 deadly force or to another person. As used in this
15 subsection, "necessary to prevent" includes a necessity
16 that arises from an honest belief that the danger exists
17 whether the danger is real or apparent.
18

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

1

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

8

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

12

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

15

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

22

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

5
6 (iii) The person against whom the defensive
7 force is used is a peace officer or employee of the Wyoming
8 department of corrections who enters or attempts to enter
9 another's home or habitation in the performance of his
10 official duties.

11
12 ~~(e)~~(d) A person who unlawfully and by force enters or
13 attempts to enter another's home or habitation is presumed
14 to be doing so with the intent to commit an unlawful act
15 involving force or violence.

16
17 (e) A person who is attacked in any place where the
18 person is lawfully present shall not have a duty to retreat
19 before using reasonable defensive force pursuant to
20 subsection (a) of this section provided that he is not the
21 initial aggressor and is not engaged in illegal activity.

22

