



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5058

Introduced 2/18/2020, by Rep. Brad Halbrook

SYNOPSIS AS INTRODUCED:

720 ILCS 5/7-1	from Ch. 38, par. 7-1
720 ILCS 5/7-2	from Ch. 38, par. 7-2
720 ILCS 5/7-3	from Ch. 38, par. 7-3
720 ILCS 5/7-14	from Ch. 38, par. 7-14

Amends the Criminal Code of 2012. Provides that a person who is justified in the use of force, including deadly force, does not have a duty to retreat. Provides that a person who is justified in the use of force, including the use of force that is intended or likely to cause death or great bodily harm, is immune from criminal prosecution and civil action for the use of force justified under these provisions (rather than have an affirmative defense to a criminal prosecution). Defines "criminal prosecution" to include charging or prosecuting the defendant.

LRB101 16592 RLC 65976 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 7-1, 7-2, 7-3, and 7-14 as follows:

6 (720 ILCS 5/7-1) (from Ch. 38, par. 7-1)

7 Sec. 7-1. Use of force in defense of person.

8 (a) A person is justified in the use of force against
9 another and does not have a duty to retreat when and to the
10 extent that he reasonably believes that such conduct is
11 necessary to defend himself or another against such other's
12 imminent use of unlawful force. However, he is justified in the
13 use of force which is intended or likely to cause death or
14 great bodily harm only if he reasonably believes that such
15 force is necessary to prevent imminent death or great bodily
16 harm to himself or another, or the commission of a forcible
17 felony and does not have a duty to retreat.

18 (b) In no case shall any act involving the use of force
19 justified under this Section give rise to any claim or
20 liability brought by or on behalf of any person acting within
21 the definition of "aggressor" set forth in Section 7-4 of this
22 Article, or the estate, spouse, or other family member of such
23 a person, against the person or estate of the person using such

1 justified force, unless the use of force involves willful or
2 wanton misconduct.

3 (c) A person who is justified in the use of force,
4 including the use of force that is intended or likely to cause
5 death or great bodily harm, is immune from criminal prosecution
6 and civil action for the use of force justified under
7 subsection (a) of this Section. As used in this subsection (c),
8 "criminal prosecution" includes charging or prosecuting the
9 defendant.

10 (Source: P.A. 93-832, eff. 7-28-04.)

11 (720 ILCS 5/7-2) (from Ch. 38, par. 7-2)

12 Sec. 7-2. Use of force in defense of dwelling.

13 (a) A person is justified in the use of force against
14 another and does not have a duty to retreat when and to the
15 extent that he reasonably believes that such conduct is
16 necessary to prevent or terminate such other's unlawful entry
17 into or attack upon a dwelling. However, he is justified in the
18 use of force which is intended or likely to cause death or
19 great bodily harm only if:

20 (1) The entry is made or attempted in a violent,
21 riotous, or tumultuous manner, and he reasonably believes
22 that such force is necessary to prevent an assault upon, or
23 offer of personal violence to, him or another then in the
24 dwelling, or

25 (2) He reasonably believes that such force is necessary

1 to prevent the commission of a felony in the dwelling.

2 (b) In no case shall any act involving the use of force
3 justified under this Section give rise to any claim or
4 liability brought by or on behalf of any person acting within
5 the definition of "aggressor" set forth in Section 7-4 of this
6 Article, or the estate, spouse, or other family member of such
7 a person, against the person or estate of the person using such
8 justified force, unless the use of force involves willful or
9 wanton misconduct.

10 (c) A person who is justified in the use of force,
11 including the use of force that is intended or likely to cause
12 death or great bodily harm, is immune from criminal prosecution
13 and civil action for the use of force justified under
14 subsection (a) of this Section. As used in this subsection (c),
15 "criminal prosecution" includes charging or prosecuting the
16 defendant.

17 (Source: P.A. 93-832, eff. 7-28-04.)

18 (720 ILCS 5/7-3) (from Ch. 38, par. 7-3)

19 Sec. 7-3. Use of force in defense of other property.

20 (a) A person is justified in the use of force against
21 another and does not have a duty to retreat when and to the
22 extent that he reasonably believes that such conduct is
23 necessary to prevent or terminate such other's trespass on or
24 other tortious or criminal interference with either real
25 property (other than a dwelling) or personal property, lawfully

1 in his possession or in the possession of another who is a
2 member of his immediate family or household or of a person
3 whose property he has a legal duty to protect. However, he is
4 justified in the use of force which is intended or likely to
5 cause death or great bodily harm only if he reasonably believes
6 that such force is necessary to prevent the commission of a
7 forcible felony.

8 (b) In no case shall any act involving the use of force
9 justified under this Section give rise to any claim or
10 liability brought by or on behalf of any person acting within
11 the definition of "aggressor" set forth in Section 7-4 of this
12 Article, or the estate, spouse, or other family member of such
13 a person, against the person or estate of the person using such
14 justified force, unless the use of force involves willful or
15 wanton misconduct.

16 (c) A person who is justified in the use of force,
17 including the use of force that is intended or likely to cause
18 death or great bodily harm, is immune from criminal prosecution
19 and civil action for the use of force justified under
20 subsection (a) of this Section. As used in this subsection (c),
21 "criminal prosecution" includes charging or prosecuting the
22 defendant.

23 (Source: P.A. 93-832, eff. 7-28-04.)

24 (720 ILCS 5/7-14) (from Ch. 38, par. 7-14)

25 Sec. 7-14. Affirmative defense. Except as otherwise

1 provided in Sections 7-1, 7-2, and 7-3 of this Article, a ~~A~~
2 defense of justifiable use of force, or of exoneration, based
3 on the provisions of this Article is an affirmative defense.
4 (Source: Laws 1961, p. 1983.)