

House File 573 - Introduced

HOUSE FILE 573

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 7)

A BILL FOR

1 An Act relating to the justifiable use of reasonable force and
2 providing a remedy.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 704.1, Code 2011, is amended to read as
2 follows:

3 **704.1 Reasonable force.**

4 1. "Reasonable force" is means that force and no more which
5 a reasonable person, in like circumstances, would judge to
6 be necessary to prevent an injury or loss and can include
7 deadly force if it is reasonable to believe that such force is
8 necessary to avoid injury or risk to one's life or safety or
9 the life or safety of another, or it is reasonable to believe
10 that such force is necessary to resist a like force or threat.

11 2. Reasonable force, including deadly force, may be used
12 ~~even if an alternative course of action is available if the~~
13 ~~alternative entails a risk to life or safety, or the life or~~
14 ~~safety of a third party, or requires one to abandon or retreat~~
15 ~~from one's dwelling or place of business or employment, and~~
16 a person has no duty to retreat from any place where one is
17 lawfully present, and has the right to stand the person's
18 ground, and meet force with force, if the person believes
19 reasonable force, including deadly force, is necessary under
20 the circumstances to prevent death or serious injury to oneself
21 or a third party, or to prevent the commission of a violent
22 felony.

23 3. A person may be wrong in the estimation of the danger or
24 the force necessary to repel the danger as long as there is a
25 reasonable basis for the belief of the person and the person
26 acts reasonably in the response to that belief.

27 Sec. 2. Section 704.2, Code 2011, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 5. A threat to cause serious injury or
30 death, by the production or brandishing of a deadly weapon,
31 is not deadly force, as long as the actions of the person are
32 objectively reasonable and limited to creating an expectation
33 that the person may use deadly force to defend oneself,
34 another, or as otherwise authorized by law.

35 Sec. 3. NEW SECTION. 704.2A Justifiable use of deadly force

1 — **presumption.**

2 1. For purposes of this chapter, a person is presumed
3 reasonably to believe that deadly force is necessary to avoid
4 injury or risk to one's life or safety or the life or safety of
5 another if:

6 a. The person against whom force is used, at the time the
7 force is used, is doing any of the following:

8 (1) Unlawfully and forcefully entering, or has unlawfully
9 or forcefully entered and is present, within the dwelling,
10 place of business or employment, or occupied vehicle of the
11 person using force.

12 (2) Attempting to remove or has removed another person
13 against the other person's will from the dwelling, place of
14 business or employment, or occupied vehicle of the person using
15 force.

16 b. The person using force knows or has reason to believe
17 that any of the conditions set forth in paragraph "a" are
18 occurring or have occurred.

19 2. The presumption set forth in this subsection does not
20 apply if, at the time force is used:

21 a. The person against whom the force is used is a lawful
22 resident of the dwelling, or has a right to be in the place of
23 business, employment, or occupied vehicle of the person using
24 force, and a protective or no contact order is not in effect
25 against the person against whom force is used.

26 b. The person sought to be removed is a child or grandchild
27 or is in the lawful custody or under the lawful guardianship of
28 the person against whom force is used.

29 c. The person using defensive force is engaged in or
30 attempting to escape from a crime or is using a dwelling, place
31 of business or employment, or occupied vehicle to further a
32 crime.

33 d. The person against whom force is used is a peace officer
34 who has entered or is attempting to enter a dwelling, place
35 of business or employment, or occupied vehicle in the lawful

1 performance of the peace officer's official duties, and the
2 person using force knows or reasonably should know that the
3 person who has entered or is attempting to enter is a peace
4 officer.

5 3. A person who is unlawfully and forcefully entering, or
6 has unlawfully or forcefully entered and is present within the
7 dwelling, place of business or employment, or occupied vehicle
8 of another is presumed to present an imminent risk of unlawful
9 deadly force to any persons lawfully present in the dwelling,
10 place of business or employment, or occupied vehicle.

11 Sec. 4. Section 704.3, Code 2011, is amended to read as
12 follows:

13 **704.3 Defense of self or another.**

14 A person is justified in the use of reasonable force when
15 the person reasonably believes that such force is necessary to
16 defend oneself or another from any actual or imminent use of
17 unlawful force.

18 Sec. 5. NEW SECTION. **704.4A Immunity.**

19 1. As used in this section, "*criminal prosecution*" means
20 arrest, detention, charging, or prosecution.

21 2. A person who uses reasonable force shall be immune from
22 criminal prosecution or civil action for using such force,
23 unless the person against whom such force is used is a peace
24 officer acting within the scope of the officer's duties and the
25 peace officer discloses the officer's identity, or the person
26 knows or reasonably should know that the person is a peace
27 officer, or the peace officer is involved in an undercover
28 investigation.

29 3. A law enforcement agency may use standard investigating
30 procedures for investigating the use of force, but the law
31 enforcement agency shall not arrest a person for using force
32 unless the law enforcement agency determines there is probable
33 cause that the force was unlawful under this chapter.

34 4. The court shall award reasonable attorney fees, court
35 costs, compensation for loss of income, and all expenses

1 incurred by the defendant in defense of any civil action
2 brought by the plaintiff if the court finds that the defendant
3 is immune from prosecution as provided in subsection 2.

4 Sec. 6. Section 704.7, Code 2011, is amended to read as
5 follows:

6 **704.7 Resisting ~~forcible~~ violent felony.**

7 1. As used in this section, "violent felony" means any
8 felonious assault, murder, violent or forced sexual abuse,
9 kidnapping, robbery, arson, or burglary.

10 2. A person who ~~knows~~ reasonably believes that a ~~forcible~~

11 violent felony is being or imminently will be perpetrated is

12 justified in using, against the perpetrator, reasonable force,

13 including deadly force, to prevent or terminate the ~~completion~~

14 ~~of that~~ perpetration of the violent felony.

15 EXPLANATION

16 This bill relates to the justifiable use of reasonable
17 force.

18 The bill provides that a person may use reasonable force,
19 including deadly force, and a person has no duty to retreat
20 from any place at which the person is lawfully present, and
21 has a right to stand the person's ground, and meet force with
22 force, if the person believes reasonable force, including
23 deadly force, is necessary under the circumstances to prevent
24 death or serious injury to oneself or a third party, or to
25 prevent the commission of a violent felony.

26 The bill provides that a person may be wrong in the
27 estimation of the danger or the force necessary to repel the
28 danger as long as there is a reasonable basis for the belief
29 and the person acts reasonably in the response to that belief.

30 Current law provides that a person may use reasonable force,
31 including deadly force, even if an alternative course of action
32 is available if the alternative entails a risk of life or
33 safety, or the life or safety of a third party, or requires one
34 to abandon or retreat from one's residence or place of business
35 or employment.

1 The bill provides that a threat to cause serious injury or
2 death by the production or brandishing of a deadly weapon, is
3 not deadly force, as long as the actions of the person are
4 objectively reasonable and limited to creating an expectation
5 that the person may use deadly force to defend oneself,
6 another, or as otherwise authorized by law.

7 The bill creates presumptions for the justifiable use of
8 deadly force in certain circumstances.

9 Under the bill, a person is presumed to be justified in
10 using deadly force if the person reasonably believes that
11 deadly force is necessary to avoid injury or risk to one's
12 life or safety or the life or safety of another under the
13 following circumstances: the person against whom force is used
14 is unlawfully and forcefully entering, or has unlawfully or
15 forcefully entered and is present within a dwelling, place of
16 business or employment, or occupied vehicle of the person using
17 force; or the person against whom force is used is removing or
18 attempting to remove another person against the other person's
19 will from a dwelling, place of business or employment, or
20 occupied vehicle of the person using force. In addition, the
21 person using force must know or have reason to believe that the
22 aforementioned circumstances are occurring or have occurred.

23 The presumption of the use of justifiable deadly force under
24 the bill does not apply in the following circumstances: the
25 person against whom the force is used is a lawful resident of
26 the dwelling, or has a right to be in the place of business or
27 employment, or occupied vehicle of the person using force, and
28 there is not a protective or no contact order in place against
29 the person against whom force is used; the person against whom
30 force is used is removing a child, grandchild, or other person
31 in the lawful custody or lawful guardianship of the person; the
32 person using defensive force is engaged in or attempting to
33 escape from a crime or is using a dwelling, place of business
34 or employment, or occupied vehicle to further a crime; or the
35 person against whom force is used is a peace officer who has

1 entered or is attempting to enter a dwelling, place of business
2 or employment, or occupied vehicle in the lawful performance of
3 the peace officer's official duties, and the person using force
4 knows or reasonably should know that the person who has entered
5 or is attempting to enter is a peace officer.

6 The bill provides that a person who is unlawfully and
7 forcefully entering, or has unlawfully or forcefully entered
8 and is present within a dwelling, place of business or
9 employment, or occupied vehicle of another, is presumed to
10 present an imminent risk of unlawful deadly force to any
11 person lawfully present in the dwelling, place of business or
12 employment, or occupied vehicle.

13 The bill also provides that a person who uses reasonable
14 force shall be immune from any criminal prosecution or civil
15 action for using such force, unless the person against whom
16 such force is used is a peace officer acting within the scope
17 of the officer's duties and the peace officer discloses the
18 officer's identity, the person knows or reasonably should know
19 that the person is a peace officer, or the peace officer is
20 involved in an undercover investigation.

21 Under the bill, a law enforcement agency shall not arrest a
22 person for using force unless it determines there is probable
23 cause that the force was unlawful under Code chapter 704.

24 The bill also provides that if a court or jury finds a person
25 justified in using reasonable force under the circumstances,
26 and the person is found not liable in a civil court, the
27 person shall be awarded reasonable attorney fees, court costs,
28 compensation for loss of any income, and reimbursement of any
29 other expenses incurred as a result of being arrested and
30 charged, to be paid by the civil plaintiff.

31 The bill also provides that a person is justified in using
32 reasonable force, including deadly force, in order to prevent
33 or terminate the perpetration of a violent felony, if the
34 person reasonably believes that a violent felony is being or
35 will imminently be perpetrated. The bill defines "violent

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1 felony" to mean any felonious assault, murder, violent or
2 forced sexual abuse, kidnapping, robbery, arson, or burglary.