

House Study Bill 36 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

A BILL FOR

1 An Act relating to the use of justifiable reasonable force
2 including deadly force.
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 "*Reasonable force*" is that force ~~and no more~~ which a
5 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 Reasonable force, including deadly force, may be used even if
12 an alternative course of action is available if the alternative
13 entails a risk to life or safety, or the life or safety of a
14 third party, or requires one to abandon or retreat from one's
15 dwelling, ~~or~~ place of business or employment, occupied vehicle,
16 or other place where one is lawfully present.

17 Sec. 2. NEW SECTION. **704.2A Justifiable use of deadly force**
18 **— presumptions.**

19 1. Except as otherwise provided in this section and in
20 section 704.6, a presumption exists that deadly force is
21 justifiable when deadly force is used against a person who
22 unlawfully and forcefully enters or attempts to enter a
23 dwelling, occupied vehicle, or place of business or employment.

24 2. A person is not justified using deadly force pursuant
25 to this section unless the person knows or has reason to know
26 that the person against whom deadly force is used is acting
27 unlawfully and forcefully.

28 3. A person who unlawfully and forcefully enters or attempts
29 to enter a dwelling, occupied vehicle, or place of business or
30 employment, is presumed to be a deadly threat to any person
31 lawfully present in the dwelling, occupied vehicle, or place of
32 business or employment.

33 4. A person who enters or attempts to enter a dwelling,
34 occupied vehicle, or place of business or employment in
35 violation of a no-contact order or protective order is presumed

1 to be doing such action unlawfully and forcefully.

2 Sec. 3. Section 704.6, subsection 1, Code 2011, is amended
3 to read as follows:

4 1. a. One who is participating in a forcible felony, or
5 riot, or a duel.

6 b. One who is using a dwelling, occupied vehicle, or place
7 of business or employment to further a crime.

8 c. One who escapes or attempts to escape from a crime.

9 Sec. 4. Section 704.6, Code 2011, is amended by adding the
10 following new subsections:

11 NEW SUBSECTION. 4. One who uses force against a legal
12 guardian who is removing or attempting to remove a person
13 under the care of the legal guardian from a dwelling, occupied
14 vehicle, or place of business or employment. As used in this
15 subsection, "*legal guardian*" means a person appointed by a court
16 pursuant to chapter 633, an attorney in fact as defined in
17 section 144B.1, or a parent or other person responsible for the
18 care of a minor.

19 NEW SUBSECTION. 5. One who uses force against a peace
20 officer who enters or attempts to enter a dwelling, occupied
21 vehicle, or place of business or employment while acting within
22 the scope of the lawful duty or authority of the peace officer,
23 and the person using the reasonable force knows or reasonably
24 should know that the person who enters or attempts to enter the
25 dwelling, occupied vehicle, or place of business or employment,
26 is a peace officer.

27 Sec. 5. Section 704.7, Code 2011, is amended to read as
28 follows:

29 **704.7 Resisting forcible felony.**

30 A person who ~~knows~~ reasonably believes that a forcible
31 felony is being perpetrated is justified in using, against the
32 perpetrator, reasonable force to prevent the completion of that
33 felony.

34 Sec. 6. Section 707.6, Code 2011, is amended by striking the
35 section and inserting in lieu thereof the following:

1 **707.6 Immunity.**

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

4 2. A person who is justified in using reasonable force
5 including deadly force pursuant to chapter 704 is immune
6 from criminal prosecution and civil liability for the use of
7 reasonable force including deadly force.

8 EXPLANATION

9 This bill relates to the use of justifiable reasonable force
10 including deadly force.

11 The bill provides that a person may use reasonable force
12 including deadly force if the alternative to using reasonable
13 force requires one to abandon or retreat from an occupied
14 vehicle or other place where one is lawfully present. Current
15 law specifies a person may use reasonable force including
16 deadly force if the alternative to using reasonable force
17 requires one to abandon or retreat from one's dwelling, or
18 place of business or employment.

19 The bill establishes a presumption that deadly force is
20 justifiable in certain circumstances. Under the bill, a person
21 is justified in using deadly force if the person against whom
22 deadly force is used is unlawfully and forcefully entering or
23 attempting to enter a dwelling, occupied vehicle, or place of
24 business or employment. The bill provides that a person is not
25 justified in using deadly force unless the person using deadly
26 force knows or has reason to know that a person against whom
27 deadly force is used is acting unlawfully and forcefully.

28 The bill specifies that a person who unlawfully and
29 forcefully enters or attempts to enter a dwelling, occupied
30 vehicle, or place of business or employment is presumed to be a
31 deadly threat to any person lawfully present in the dwelling,
32 occupied vehicle, or place of business or employment.

33 The bill specifies that a person who enters or attempts to
34 enter a dwelling, occupied vehicle, or place of business or
35 employment in violation of a no-contact order or protective

1 order is presumed to be doing such action unlawfully and
2 forcefully.

3 The bill specifies that the defense of justification is
4 not available to a person who is using a dwelling, occupied
5 vehicle, or place of business or employment to further a crime,
6 or who is escaping or attempting to escape from a crime.
7 Current law specifies that the defense of justification is
8 not available to a person who is participating in a forcible
9 felony.

10 The bill establishes that a defense of justification is not
11 available to a person who uses force against a legal guardian
12 who is removing or attempting to remove a person under the care
13 of the legal guardian from a dwelling, occupied vehicle, or
14 place of business or employment.

15 The bill also establishes that a defense of justification
16 is not available to a person who uses force against a peace
17 officer who enters or attempts to enter a dwelling, occupied
18 vehicle, or place of business or employment while acting within
19 the scope of the lawful duty or authority of the peace officer,
20 and the person using the reasonable force knows or reasonably
21 should know that the person who enters or attempts to enter the
22 dwelling, occupied vehicle, or place of business or employment,
23 is a peace officer.

24 The bill amends Code section 704.7 relating to justifiable
25 force used to resist a forcible felony. The bill provides
26 that a person who "reasonably believes" that a forcible felony
27 is being perpetrated is justified in using reasonable force
28 against the perpetrator. Current law provides that a person
29 who "knows" a forcible felony is being perpetrated is justified
30 in using reasonable force against the perpetrator.

31 The bill amends Code section 707.6 relating to civil
32 liability, which provides civil immunity for the use of
33 reasonable force against aggressors. The bill specifies that
34 a person who is justified in using reasonable force including
35 deadly force pursuant to Code chapter 704 is immune from

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1 criminal prosecution and civil liability for the use of such
2 force.