

House File 239 - Introduced

HOUSE FILE 239

BY SHIPLEY

A BILL FOR

1 An Act relating to immunity from criminal or civil liability in
2 cases involving the justifiable use of reasonable force.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 704.13, Code 2023, is amended to read as
2 follows:

3 **704.13 Immunity.**

4 1. A person who is justified in using reasonable force
5 against an aggressor in defense of oneself, another person,
6 or property pursuant to section 704.4 is immune from criminal
7 or civil liability for all damages incurred by the aggressor
8 pursuant to the application of reasonable force.

9 2. There shall be a presumption under this section that the
10 person reasonably believed that such use of force was necessary
11 to defend the person, another person, or property from what the
12 person reasonably believed to be the use of or imminent use of
13 unlawful force by another person.

14 3. A law enforcement agency may use standard procedures
15 for investigating the use or threatened use of force, but the
16 law enforcement agency shall not arrest the person for using
17 or threatening to use force unless the law enforcement agency
18 makes the determination that there is probable cause to believe
19 that the force that was used or was threatened to be used was
20 unlawful.

21 4. In a criminal prosecution or civil action, when a
22 justified use of force immunity has been raised by a person at
23 a pretrial immunity hearing, the burden of proof, to be carried
24 by clear and convincing evidence, is on the party seeking to
25 overcome the immunity provided in subsection 1. The court
26 shall hold a pretrial immunity hearing within fourteen days of
27 the person filing a motion to dismiss the criminal prosecution
28 or civil action on the grounds of immunity.

29 5. In a criminal prosecution, a determination by the court
30 that there is probable cause to believe that the criminal
31 offense was committed by the person and that the person
32 should stand trial for the criminal offense must include a
33 determination that the person's use of force was not justified.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to immunity from criminal or civil
3 liability in cases involving the justifiable use of reasonable
4 force.

5 Under current law, a person who is justified in using
6 reasonable force against an aggressor in defense of the
7 person's self, another person, or property is immune from
8 criminal or civil liability for all damages incurred. The bill
9 provides that there shall be a presumption that the person
10 reasonably believed that such use of force was necessary to
11 defend the person, another person, or property from what the
12 person reasonably believed to be the use of or imminent use of
13 unlawful force by another person. A law enforcement agency may
14 investigate the use or threatened use of force, but the law
15 enforcement agency shall not arrest the person for using or
16 threatening to use force unless law enforcement determines that
17 there is probable cause to believe that the force that was used
18 or was threatened to be used was unlawful.

19 The bill provides that in a criminal prosecution or civil
20 action, once a justified use of force immunity has been raised
21 by a person at a pretrial immunity hearing, the burden of
22 proof, to be carried by clear and convincing evidence, is on
23 the party seeking to overcome the immunity. The court shall
24 hold a pretrial immunity hearing within 14 days of the person
25 filing a motion to dismiss on the grounds of immunity.

26 The bill provides that a probable cause determination by the
27 court that the person committed the crime and that the person
28 should stand trial for the criminal offense must include a
29 determination that the person's use of force was not justified.