

SENATE FILE NO. SF0071

Stand your ground.

Sponsored by: Senator(s) Bouchard, Driskill, Meier and Moniz and Representative(s) Barlow, Biteman, Blackburn, 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 the opportunity to retreat may be
4 considered; providing immunity from criminal or civil
5 liability for reasonable use of defensive force; providing
6 for an award of costs if a civil lawsuit is filed as
7 specified; providing a definition; 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. 7-2-109 is created to read:

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1

2 **7-2-109. Immunity for reasonable use of defensive**
3 **force; preconditions for arrest when defensive force is**
4 **used.**

5

6 (a) A person who uses reasonable defensive force
7 pursuant to W.S. 6-2-602 shall be immune from any arrest,
8 detention, charging, citation or prosecution for using
9 defensive force.

10

11 (b) A peace officer may use standard investigating
12 procedures for investigating the use of defensive force but
13 shall not arrest a person for using defensive force unless
14 the peace officer determines that there is probable cause
15 that the defensive force was not reasonable under W.S.
16 6-2-602.

17

18 (c) A person who uses reasonable defensive force may
19 be wrong in his estimation of the danger or the force
20 necessary to repel the danger as long as there is a
21 reasonable basis for the belief of the person and the
22 person acts reasonably in the response to that belief.

23

1 (d) A person arrested or prosecuted who believes that
2 he is entitled to immunity under subsection (a) of this
3 section may file a motion with the court asserting that the
4 person used reasonable defensive force under W.S. 6-2-602.
5 Upon the filing of the motion the court shall hold a
6 hearing prior to trial and shall grant the person's motion
7 unless the party seeking to overcome the immunity in
8 subsection (a) of this section proves beyond a reasonable
9 doubt that the person did not use reasonable defensive
10 force under W.S. 6-2-602.

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12 **Section 2.** W.S. 6-1-204 and 6-2-602(d) by creating a
13 new paragraph (iii) and a by creating a new subsection (e)
14 are amended to read:

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16 **6-1-204. Immunity from civil action for justifiable**
17 **use of force; attorney fees.**

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

1

2 (b) A person who uses reasonable defensive force may
3 be wrong in his estimation of the danger or the force
4 necessary to repel the danger as long as there is a
5 reasonable basis for the belief of the person and the
6 person acts reasonably in the response to that belief.

7

8 (c) In a civil action filed against a person related
9 to the person's use of defensive force, the person may file
10 a motion with the court asserting that the person used
11 reasonable defensive force under W.S. 6-2-602. Upon the
12 filing of the motion the court shall hold a hearing prior
13 to trial and shall grant the person's motion unless the
14 party seeking to overcome the immunity in subsection (a) of
15 this section proves by clear and convincing evidence that
16 the person did not use reasonable defensive force under
17 W.S. 6-2-602.

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19 (d) A court shall award reasonable attorney fees,
20 court costs, compensation for any loss of income and all
21 other expenses incurred by a person in defense of any civil
22 action arising from the person's use of reasonable force
23 pursuant to W.S. 6-2-602 if the court finds that the

1 defendant is immune from civil action under subsection (a)
2 of this section.

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4 **6-2-602. Use of force in self defense; no duty to**
5 **retreat.**

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7 (d) As used in this section:

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9 (iii) "Reasonable defensive force" means the
10 threatened or actual use of force that a reasonable person
11 in like circumstances would judge to be necessary to
12 prevent an injury or loss, and no more, and can include
13 deadly force if such force is necessary to prevent death or
14 serious bodily injury to himself or another, or it is
15 reasonable to believe that such force is necessary to
16 resist a like force or threat.

17

18 (e) A person who is not engaged in illegal activity
19 has no duty to retreat from any place where the person is
20 lawfully present before using reasonable defensive force as
21 defined in paragraph (d)(iii) of this section. A finder of
22 fact shall not be permitted to consider the possibility of
23 retreat as a factor in determining whether a person who

1 used reasonable defensive force reasonably believed that
2 the force was necessary to prevent death or serious bodily
3 injury to himself or another.

4

5 **Section 3.** This act is effective July 1, 2018.

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(END)