

HOUSE BILL NO. HB0046

Duty to retreat.

Sponsored by: Representative(s) Watt and Powers

A BILL

for

1 AN ACT relating to crimes and offenses; providing immunity
2 from criminal prosecution or civil action for using deadly
3 force as specified; allowing for the use of physical or
4 deadly force under specified circumstances in defending a
5 person, premises, property or in response to the commission
6 of a crime; providing for attorneys' fees, costs and
7 specified damages for defending lawful use of deadly force;
8 providing definitions; providing for conforming amendments;
9 and providing for an effective date.

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11 *Be It Enacted by the Legislature of the State of Wyoming:*

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13 **Section 1.** W.S. 6-1-204 and 6-2-601 and 6-2-602 are
14 created to read:

15

16 **6-1-204. Immunity from criminal prosecution and civil**
17 **action for justifiable use of force.**

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2 (a) A person who uses force as permitted in W.S.
3 6-2-602 is justified in using such force and is immune from
4 criminal prosecution and civil action for the use of such
5 force, unless the person against whom force was used is a
6 peace officer, who was acting in the performance of his
7 official duties and the officer identified himself in
8 accordance with any applicable law or the person using
9 force knew or reasonably should have known that the person
10 was a peace officer. As used in this subsection, the term
11 "criminal prosecution" includes arresting, detaining in
12 custody, charging or prosecuting the defendant.

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14 (b) A law enforcement agency may use standard
15 procedures for investigating the use of force as described
16 in subsection (a) of this section, but the agency shall not
17 arrest the person for using force unless it determines that
18 there is probable cause to believe that the force that was
19 used was unlawful.

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21 (c) The court shall award reasonable attorney's fees,
22 court costs, compensation for loss of income, and all
23 expenses incurred by the defendant in defense of any civil
24 action brought by a plaintiff if the court finds that the

1 defendant is immune from prosecution as provided in
2 subsection (a) of this section.

3

4

ARTICLE 6

5

JUSTIFICATION

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6-2-601. Applicability of article.

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9 The common law shall govern in all cases not governed by
10 this article.

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6-2-602. Use of force in self defense.

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14 (a) A person is presumed to have held a reasonable
15 fear of imminent peril of death or serious bodily injury to
16 himself or another when using defensive force that is
17 intended or likely to cause death or serious bodily injury
18 to another if:

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(i) The person against whom the defensive force
was used was in the process of unlawfully and forcefully
entering, or had unlawfully and forcibly entered, an
occupied structure, or if that person had removed or was

1 attempting to remove another against his will from the
2 occupied structure; and

3

4 (ii) The person who uses defensive force knew or
5 had reason to believe that an unlawful and forcible entry
6 or unlawful and forcible act was occurring or had occurred.

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8 (b) The presumption set forth in subsection (a) of
9 this section does not apply if:

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11 (i) The person against whom the defensive force
12 is used has a right to be in or is a lawful resident of the
13 occupied structure, such as an owner, lessee or
14 titleholder, and there is not an injunction for protection
15 from domestic violence or a written pretrial supervision
16 order of no contact against that person;

17

18 (ii) The person sought to be removed is a child
19 or grandchild, or is otherwise in the lawful custody or
20 under the lawful guardianship of, the person against whom
21 the defensive force is used;

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1 (iii) The person who uses defensive force is
2 engaged in an unlawful activity or is using the occupied
3 structure to further an unlawful activity; or

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5 (iv) The person against whom the defensive force
6 is used is a peace officer who enters or attempts to enter
7 an occupied structure in the performance of his official
8 duties and the officer identified himself in accordance
9 with any applicable law or the person using force knew or
10 reasonably should have known the person entering or
11 attempting to enter was a peace officer.

12
13 (c) A person who is not engaged in an unlawful
14 activity and who is attacked in any other place where he
15 has a right to be has no duty to retreat and has the right
16 to stand his ground and meet force with force, including
17 deadly force if he reasonably believes it is necessary to
18 do so to prevent death or serious bodily injury to himself
19 or another or to prevent the commission of a violent
20 felony.

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22 (d) A person who unlawfully and by force enters or
23 attempts to enter a person's occupied structure is presumed

1 to be doing so with the intent to commit an unlawful act
2 involving force or violence.

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4 **Section 2.** W.S. 6-2-504(b) is amended to read:

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6 **6-2-504. Reckless endangering; penalty.**

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8 (b) Any person who knowingly points a firearm at or
9 in the direction of another, whether or not the person
10 believes the firearm is loaded, is guilty of reckless
11 endangering unless reasonably necessary in defense of his
12 person, property or abode or to prevent serious bodily
13 injury to another or as provided for under W.S. 6-2-602.

14

15 **Section 3.** This act is effective July 1, 2006.

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(END)