



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5803

Introduced 4/2/2024, by Rep. John M. Cabello and Travis Weaver

SYNOPSIS AS INTRODUCED:

720 ILCS 5/7-1	from Ch. 38, par. 7-1
720 ILCS 5/7-2	from Ch. 38, par. 7-2
720 ILCS 5/7-3	from Ch. 38, par. 7-3
720 ILCS 5/7-14	from Ch. 38, par. 7-14

Amends the Criminal Code of 2012. Provides that a person who is justified in the use of force, including deadly force, does not have a duty to retreat. Provides that a person who is justified in the use of force, including the use of force that is intended or likely to cause death or great bodily harm, is immune from criminal prosecution and civil action for the use of force justified under these provisions (rather than have an affirmative defense to a criminal prosecution). Defines "criminal prosecution" to include charging or prosecuting the defendant.

LRB103 40088 RLC 71616 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 7-1, 7-2, 7-3, and 7-14 as follows:

6 (720 ILCS 5/7-1) (from Ch. 38, par. 7-1)

7 Sec. 7-1. Use of force in defense of person.

8 (a) A person is justified in the use of force against
9 another and does not have a duty to retreat when and to the
10 extent that he reasonably believes that such conduct is
11 necessary to defend himself or another against such other's
12 imminent use of unlawful force. However, he is justified in
13 the use of force which is intended or likely to cause death or
14 great bodily harm only if he reasonably believes that such
15 force is necessary to prevent imminent death or great bodily
16 harm to himself or another, or the commission of a forcible
17 felony and does not have a duty to retreat.

18 (b) In no case shall any act involving the use of force
19 justified under this Section give rise to any claim or
20 liability brought by or on behalf of any person acting within
21 the definition of "aggressor" set forth in Section 7-4 of this
22 Article, or the estate, spouse, or other family member of such
23 a person, against the person or estate of the person using such

1 justified force, unless the use of force involves willful or
2 wanton misconduct.

3 (c) A person who is justified in the use of force,
4 including the use of force that is intended or likely to cause
5 death or great bodily harm, is immune from criminal
6 prosecution and civil action for the use of force justified
7 under subsection (a) of this Section. As used in this
8 subsection (c), "criminal prosecution" includes charging or
9 prosecuting the defendant.

10 (Source: P.A. 93-832, eff. 7-28-04.)

11 (720 ILCS 5/7-2) (from Ch. 38, par. 7-2)

12 Sec. 7-2. Use of force in defense of dwelling.

13 (a) A person is justified in the use of force against
14 another and does not have a duty to retreat when and to the
15 extent that he reasonably believes that such conduct is
16 necessary to prevent or terminate such other's unlawful entry
17 into or attack upon a dwelling. However, he is justified in the
18 use of force which is intended or likely to cause death or
19 great bodily harm only if:

20 (1) The entry is made or attempted in a violent,
21 riotous, or tumultuous manner, and he reasonably believes
22 that such force is necessary to prevent an assault upon,
23 or offer of personal violence to, him or another then in
24 the dwelling, or

25 (2) He reasonably believes that such force is

1 necessary to prevent the commission of a felony in the
2 dwelling.

3 (b) In no case shall any act involving the use of force
4 justified under this Section give rise to any claim or
5 liability brought by or on behalf of any person acting within
6 the definition of "aggressor" set forth in Section 7-4 of this
7 Article, or the estate, spouse, or other family member of such
8 a person, against the person or estate of the person using such
9 justified force, unless the use of force involves willful or
10 wanton misconduct.

11 (c) A person who is justified in the use of force,
12 including the use of force that is intended or likely to cause
13 death or great bodily harm, is immune from criminal
14 prosecution and civil action for the use of force justified
15 under subsection (a) of this Section. As used in this
16 subsection (c), "criminal prosecution" includes charging or
17 prosecuting the defendant.

18 (Source: P.A. 93-832, eff. 7-28-04.)

19 (720 ILCS 5/7-3) (from Ch. 38, par. 7-3)

20 Sec. 7-3. Use of force in defense of other property.

21 (a) A person is justified in the use of force against
22 another and does not have a duty to retreat when and to the
23 extent that he reasonably believes that such conduct is
24 necessary to prevent or terminate such other's trespass on or
25 other tortious or criminal interference with either real

1 property (other than a dwelling) or personal property,
2 lawfully in his possession or in the possession of another who
3 is a member of his immediate family or household or of a person
4 whose property he has a legal duty to protect. However, he is
5 justified in the use of force which is intended or likely to
6 cause death or great bodily harm only if he reasonably
7 believes that such force is necessary to prevent the
8 commission of a forcible felony.

9 (b) In no case shall any act involving the use of force
10 justified under this Section give rise to any claim or
11 liability brought by or on behalf of any person acting within
12 the definition of "aggressor" set forth in Section 7-4 of this
13 Article, or the estate, spouse, or other family member of such
14 a person, against the person or estate of the person using such
15 justified force, unless the use of force involves willful or
16 wanton misconduct.

17 (c) A person who is justified in the use of force,
18 including the use of force that is intended or likely to cause
19 death or great bodily harm, is immune from criminal
20 prosecution and civil action for the use of force justified
21 under subsection (a) of this Section. As used in this
22 subsection (c), "criminal prosecution" includes charging or
23 prosecuting the defendant.

24 (Source: P.A. 93-832, eff. 7-28-04.)

25 (720 ILCS 5/7-14) (from Ch. 38, par. 7-14)

1 Sec. 7-14. Affirmative defense. Except as otherwise
2 provided in Sections 7-1, 7-2, and 7-3 of this Article, a ~~A~~
3 defense of justifiable use of force, or of exoneration, based
4 on the provisions of this Article is an affirmative defense.
5 (Source: Laws 1961, p. 1983.)