

SENATE BILL No. 46

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-3-2.

Synopsis: Self defense. Specifies that a person is not justified in using force against another person if the person using force: (1) is the initial aggressor; (2) has reached a place of safety after escaping an attack and immediately returns to the location of the attack (unless the location is the person's property or residence); or (3) is pursuing an attacker or trespasser who has retreated and no longer presents a threat to the person.

Effective: July 1, 2015.

Breaux

January 6, 2015, read first time and referred to Committee on Corrections & Criminal Law.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 46

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-3-2, AS AMENDED BY P.L.13-2013,
2 SECTION 139, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) In enacting this section, the
4 general assembly finds and declares that it is the policy of this state to
5 recognize the unique character of a citizen's home and to ensure that a
6 citizen feels secure in his or her own home against unlawful intrusion
7 by another individual or a public servant. By reaffirming the long
8 standing right of a citizen to protect his or her home against unlawful
9 intrusion, however, the general assembly does not intend to diminish
10 in any way the other robust self defense rights that citizens of this state
11 have always enjoyed. Accordingly, the general assembly also finds and
12 declares that it is the policy of this state that people have a right to
13 defend themselves and third parties from physical harm and crime. The
14 purpose of this section is to provide the citizens of this state with a
15 lawful means of carrying out this policy.

16 (b) As used in this section, "public servant" means a person



1 described in IC 35-31.5-2-129 or IC 35-31.5-2-185.

2 (c) A person is justified in using reasonable force against any other
3 person to protect the person or a third person from what the person
4 reasonably believes to be the imminent use of unlawful force.

5 However, a person:

6 (1) is justified in using deadly force; and

7 (2) does not have a duty to retreat;

8 if the person reasonably believes that that force is necessary to prevent
9 serious bodily injury to the person or a third person or the commission
10 of a forcible felony. No person in this state shall be placed in legal
11 jeopardy of any kind whatsoever for protecting the person or a third
12 person by reasonable means necessary.

13 (d) A person:

14 (1) is justified in using reasonable force, including deadly force,
15 against any other person; and

16 (2) does not have a duty to retreat;

17 if the person reasonably believes that the force is necessary to prevent
18 or terminate the other person's unlawful entry of or attack on the
19 person's dwelling, curtilage, or occupied motor vehicle.

20 (e) With respect to property other than a dwelling, curtilage, or an
21 occupied motor vehicle, a person is justified in using reasonable force
22 against any other person if the person reasonably believes that the force
23 is necessary to immediately prevent or terminate the other person's
24 trespass on or criminal interference with property lawfully in the
25 person's possession, lawfully in possession of a member of the person's
26 immediate family, or belonging to a person whose property the person
27 has authority to protect. However, a person:

28 (1) is justified in using deadly force; and

29 (2) does not have a duty to retreat;

30 only if that force is justified under subsection (c).

31 (f) A person is justified in using reasonable force, including deadly
32 force, against any other person and does not have a duty to retreat if the
33 person reasonably believes that the force is necessary to prevent or stop
34 the other person from hijacking, attempting to hijack, or otherwise
35 seizing or attempting to seize unlawful control of an aircraft in flight.
36 For purposes of this subsection, an aircraft is considered to be in flight
37 while the aircraft is:

38 (1) on the ground in Indiana:

39 (A) after the doors of the aircraft are closed for takeoff; and

40 (B) until the aircraft takes off;

41 (2) in the airspace above Indiana; or

42 (3) on the ground in Indiana:



- 1 (A) after the aircraft lands; and
 2 (B) before the doors of the aircraft are opened after landing.
- 3 (g) Notwithstanding subsections (c) through (e), a person is not
 4 justified in using force if **one (1) or more of the following apply:**
- 5 (1) The person is committing or is escaping after the commission
 6 of a crime.
 7 (2) The person provokes unlawful action by another person with
 8 intent to cause bodily injury to the other person. ~~or~~
 9 (3) The person has entered into combat with another person or is
 10 the initial aggressor. ~~unless the person withdraws from the~~
 11 ~~encounter and communicates to the other person the intent to do~~
 12 ~~so and the other person nevertheless continues or threatens to~~
 13 ~~continue unlawful action.~~
 14 **(4) The person has reached a place of safety after escaping an**
 15 **attack or potential attack and then shortly thereafter:**
 16 **(A) returns to the location of the attack; or**
 17 **(B) seeks out a person involved in the attack.**
 18 **However, this subdivision does not prohibit a person from**
 19 **using reasonable force in accordance with this section if the**
 20 **location to which the person has returned is the person's**
 21 **property or residence, or if the person returns with the intent**
 22 **to protect a third person from what the person reasonably**
 23 **believes to be the imminent use of unlawful force.**
- 24 **(5) The person is pursuing an attacker or trespasser who:**
 25 **(A) has withdrawn or is retreating; and**
 26 **(B) no longer presents an imminent threat to the person.**
- 27 (h) Notwithstanding subsection (f), a person is not justified in using
 28 force if the person:
 29 (1) is committing, or is escaping after the commission of, a crime;
 30 (2) provokes unlawful action by another person, with intent to
 31 cause bodily injury to the other person; or
 32 (3) continues to combat another person after the other person
 33 withdraws from the encounter and communicates the other
 34 person's intent to stop hijacking, attempting to hijack, or
 35 otherwise seizing or attempting to seize unlawful control of an
 36 aircraft in flight.
- 37 (i) A person is justified in using reasonable force against a public
 38 servant if the person reasonably believes the force is necessary to:
 39 (1) protect the person or a third person from what the person
 40 reasonably believes to be the imminent use of unlawful force;
 41 (2) prevent or terminate the public servant's unlawful entry of or
 42 attack on the person's dwelling, curtilage, or occupied motor



1 vehicle; or

2 (3) prevent or terminate the public servant's unlawful trespass on
3 or criminal interference with property lawfully in the person's
4 possession, lawfully in possession of a member of the person's
5 immediate family, or belonging to a person whose property the
6 person has authority to protect.

7 (j) Notwithstanding subsection (i), a person is not justified in using
8 force against a public servant if **one (1) or more of the following**
9 **apply:**

10 (1) The person is committing or is escaping after the commission
11 of a crime.

12 (2) The person provokes action by the public servant with intent
13 to cause bodily injury to the public servant.

14 (3) The person has entered into combat with the public servant or
15 is the initial aggressor. ~~unless the person withdraws from the~~
16 ~~encounter and communicates to the public servant the intent to do~~
17 ~~so and the public servant nevertheless continues or threatens to~~
18 ~~continue unlawful action. or~~

19 (4) The person reasonably believes the public servant is:

20 (A) acting lawfully; or

21 (B) engaged in the lawful execution of the public servant's
22 official duties.

23 **(5) The person has reached a place of safety after escaping an**
24 **attack or potential attack and then shortly thereafter:**

25 **(A) returns to the location of the attack; or**

26 **(B) seeks out a public servant involved in the attack.**

27 **However, this subdivision does not prohibit a person from**
28 **using reasonable force in accordance with this section if the**
29 **location to which the person has returned is the person's**
30 **property or residence, or if the person returns with the intent**
31 **to protect a third person from what the person reasonably**
32 **believes to be the imminent use of unlawful force.**

33 **(6) The person is pursuing a public servant who:**

34 **(A) has withdrawn or is retreating; and**

35 **(B) no longer presents an imminent threat to the person.**

36 (k) A person is not justified in using deadly force against a public
37 servant whom the person knows or reasonably should know is a public
38 servant unless:

39 (1) the person reasonably believes that the public servant is:

40 (A) acting unlawfully; or

41 (B) not engaged in the execution of the public servant's official
42 duties; and



1 (2) the force is reasonably necessary to prevent serious bodily
2 injury to the person or a third person.

