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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 238

01/12/2017 Authored by Nash, Drazkowski, Rarick, Lucero, Heintzeman and others
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to firearms; clarifying law on use of force in defense of home and person;
1.3 codifying and extending Minnesota's self-defense and defense of home laws;
1.4 eliminating the common law duty to retreat in cases of self-defense outside the
1.5 home; expanding the boundaries of dwelling for purposes of self-defense; creating
1.6 a presumption in the case of a person entering a dwelling or occupied vehicle by
1.7 stealth or force; extending the rights available to a person in that person's dwelling
1.8 to a person defending against entry of that person's occupied vehicle; amending
1.9 Minnesota Statutes 2016, section 609.065.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2016, section 609.065, is amended to read:

1.12 609.065 JUSTIFIABLE ~~TAKING OF LIFE~~ USE OF DEADLY FORCE IN
1.13 DEFENSE OF HOME AND PERSON.

1.14 Subdivision 1. Definitions. The intentional taking of the life of another is not authorized
1.15 by section 609.06, except when necessary in resisting or preventing an offense which the
1.16 actor reasonably believes exposes the actor or another to great bodily harm or death, or
1.17 preventing the commission of a felony in the actor's place of abode. (a) For purposes of this
1.18 section, the terms in this subdivision have the meanings given them.

1.19 (b) "Court order" means an order for protection issued under section 518B.01, a
1.20 restraining order issued under section 609.748, a no contact order issued under section
1.21 629.75, or a substantively similar order issued by any court in this state, another state, the
1.22 United States, or any subordinate jurisdiction of the United States.

1.23 (c) "Deadly force" means force used by an individual with the purpose of causing, or
1.24 which the individual should reasonably know creates a substantial risk of causing, great
1.25 bodily harm or death. The intentional discharge of a firearm by an individual at another

2.1 person, or at a vehicle in which another person is believed to be, constitutes deadly force.
2.2 A threat to cause great bodily harm or death, by the production of a weapon or otherwise,
2.3 constitutes reasonable force and not deadly force, when the individual's objective is limited
2.4 to creating an expectation that the individual will use deadly force only if authorized by
2.5 law.

2.6 (d) "Dwelling" means a building defined under section 609.556, subdivision 3, an
2.7 overnight stopping accommodation of any kind, or a place of abode, that an individual
2.8 temporarily or permanently is occupying or intending to occupy as a habitation or home.
2.9 A dwelling includes, but is not limited to, a building or conveyance and that building's or
2.10 conveyance's curtilage and any attached or adjacent deck, porch, appurtenance, or other
2.11 structure, whether the building or conveyance is used temporarily or permanently for these
2.12 purposes, is mobile or immobile, or is a motor vehicle, watercraft, motor home, tent, or the
2.13 equivalent.

2.14 (e) "Forcible felony" means any crime punishable by imprisonment exceeding one year
2.15 the elements of which include the use or threatened use of physical force or a deadly weapon
2.16 against the person of another, including but not limited to: murder in the first degree under
2.17 section 609.185; murder in the second degree under section 609.19; manslaughter in the
2.18 first degree under section 609.20; assault in the first degree under section 609.221; assault
2.19 in the second degree under section 609.222; assault in the third degree under section 609.223;
2.20 criminal sexual conduct in the first degree under section 609.342; criminal sexual conduct
2.21 in the second degree under section 609.343; arson in the first degree under section 609.561;
2.22 burglary in the first, second, and third degrees under section 609.582; robbery under sections
2.23 609.24 and 609.245; and kidnapping under section 609.25.

2.24 (f) "Good faith" includes honesty in fact in the conduct of the act concerned.

2.25 (g) "Great bodily harm" has the meaning given in section 609.02, subdivision 8.

2.26 (h) "Imminent" means the actor infers from all the facts and circumstances that the course
2.27 of conduct has commenced.

2.28 (i) "Substantial bodily harm" has the meaning given in section 609.02, subdivision 7a.

2.29 (j) "Vehicle" means a conveyance of any type.

2.30 Subd. 2. **Circumstances when authorized.** (a) The use of deadly force by an individual
2.31 is justified under this section when the act is undertaken:

2.32 (1) to resist or prevent the commission of a felony in the individual's dwelling;

3.1 (2) to resist or prevent what the individual reasonably believes is an offense or attempted
3.2 offense that imminently exposes the individual or another person to substantial bodily harm,
3.3 great bodily harm, or death; or

3.4 (3) to resist or prevent what the individual reasonably believes is the commission or
3.5 imminent commission of a forcible felony.

3.6 (b) The use of deadly force is not authorized under this section if the individual knows
3.7 that the person against whom force is being used is a licensed peace officer from this state,
3.8 another state, the United States, or any subordinate jurisdiction of the United States, who
3.9 is acting lawfully.

3.10 Subd. 3. **Degree of force; retreat.** An individual taking defensive action pursuant to
3.11 subdivision 2 may use all force and means, including deadly force, that the individual in
3.12 good faith believes is required to succeed in defense. The individual may meet force with
3.13 superior force when the individual's objective is defensive; the individual is not required to
3.14 retreat; and the individual may continue defensive actions against an assailant until the
3.15 danger has ended.

3.16 Subd. 4. **Presumptions.** (a) An individual using deadly force is presumed to possess a
3.17 reasonable belief that there exists an imminent threat of substantial bodily harm, great bodily
3.18 harm, or death to the individual or another person, if the individual knows or has reason to
3.19 know that:

3.20 (1) the person against whom the defensive action is being taken is unlawfully entering
3.21 or attempting to enter by force or by stealth, or has unlawfully entered by force or by stealth
3.22 and remains within, the dwelling or occupied vehicle of the individual; or

3.23 (2) the person against whom the defensive action is being taken is in the process of
3.24 removing, or attempting to remove, the individual or another person from the dwelling or
3.25 occupied vehicle of the individual.

3.26 (b) An individual is not entitled to the benefit of the presumption in paragraph (a) if the
3.27 individual knows that the person against whom the defensive action is being taken:

3.28 (1) is a lawful resident of the dwelling or a lawful possessor of the vehicle, or is otherwise
3.29 lawfully permitted to enter the dwelling or vehicle; or

3.30 (2) is a person who has lawful custody of the person being removed from the dwelling
3.31 or vehicle or whose removal from the dwelling or vehicle is being attempted. A person who
3.32 is prohibited by a court order from contacting another individual or from entering a dwelling

4.1 or possessing a vehicle of another individual is not a lawful resident of that individual's
4.2 dwelling and is not a lawful possessor of that individual's vehicle.

4.3 (c) An individual using defensive force is not entitled to the benefit of the presumption
4.4 in paragraph (a) if the individual is presently engaged in a crime or attempting to escape
4.5 from the scene of a crime, or is presently using the dwelling or occupied vehicle in
4.6 furtherance of a crime.

4.7 (d) An individual is not entitled to the benefit of the presumption in paragraph (a) if the
4.8 individual knows or has reason to know that the person against whom the defensive action
4.9 is being taken is a licensed peace officer from this state, another state, the United States, or
4.10 any subordinate jurisdiction of the United States, who is acting lawfully.

4.11 Subd. 5. **Criminal investigation; immunity from prosecution.** (a) An individual who
4.12 uses force, including deadly force, according to this section or as otherwise provided by
4.13 law in defense of the individual, the individual's dwelling, or another individual is justified
4.14 in using such force and is immune from any criminal prosecution for that act.

4.15 (b) A law enforcement agency may arrest an individual using force under circumstances
4.16 described in this section only after considering any claims or circumstances supporting
4.17 self-defense or lawful defense of another individual.

4.18 Subd. 6. **Justifiable use of force; burden of proof.** In a criminal trial, when there is
4.19 any evidence of justifiable use of force under this section or section 609.06, the state has
4.20 the burden of proving beyond a reasonable doubt that the defendant's actions were not
4.21 justifiable.

4.22 Subd. 7. **Short title.** This section may be cited as the "Defense of Dwelling and Person
4.23 Act of 2017."

4.24 **EFFECTIVE DATE.** This section is effective August 1, 2017, and applies to uses of
4.25 deadly force occurring on or after that date.