

79TH HOUSE DISTRICT

PARTS OF CLARK COUNTY
INCLUDING: SPRINGFIELD, NEW CARLISLE,
SOUTH CHARLESTON, AND ENON

COMMITTEES

CHAIR: AGRICULTURE & RURAL
DEVELOPMENT
FEDERALISM
PRIMARY AND SECONDARY EDUCATION



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State Representative Kyle Koehler Ohio House of Representatives

Chairman Hambley, Vice Chair Patton, Ranking Member Brown and the House Civil Justice Committee, thank you for allowing me to give sponsor testimony on House Bill 796. A bill to extend the rights of law abiding citizens to defend themselves anywhere they are legally allowed to be, as long as they are not involved in any unlawful activity and are not the original aggressor.

Ohio Revised Code 2901.09(B) establishes what we refer to as the “Castle Doctrine” in that there is no duty to retreat before using force if a person is lawfully within their residence, vehicle, or a vehicle owned by an immediate family member.

The Ohio Concealed Carry Handbook published by the Ohio Attorney General further states:

“Being a lawful occupant of a residence or vehicle is not a license to use deadly force against an attacker. The person who is attacked, without fault of his own, may use deadly force only if he reasonably and honestly believed that deadly force was necessary to prevent serious bodily harm or death. If the person does not have this belief, he should not use deadly force.”

House Bill 796 extends the rules described in the Castle Doctrine to any place a person is lawfully allowed to be. It does not change the fact that a person must, without fault of his/her own, honestly believe that deadly force was necessary to prevent serious bodily harm or death.

Currently, the Ohio Supreme Court has explained that a defendant generally must prove three conditions to establish that he acted in defense of himself or another.

First, the defendant must not have created the situation. The defendant cannot be the first aggressor or initiator.

Second, the defendant must have had a real belief that he was in immediate danger of death or great bodily harm and that his use of deadly force was the only way to escape that danger. Bear in mind that deadly force may only be used to protect against serious bodily harm or death. The key word is “serious.”

Third, unless a person is in their residence, their vehicle or the vehicle of an immediate family member - they must show that he/she did not have a duty to retreat or avoid the danger.

House Bill 796, makes one simple change to the Castle Doctrine language by removing the reference to vehicle and replacing it with 17 words: “if that person is in a place in which the person lawfully has the right to be.” Again, this change does not remove the fact that the person choosing to use deadly force must not have been the original aggressor and the person must believe they are in immediate danger of death or great bodily harm.

Additionally, HB 796 clarifies how this will apply in court. It adds the language: “A trier of fact shall not consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense, defense of another, or defense of that person's residence reasonably believed that the force was necessary to prevent injury, loss, or risk to life or safety.”

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I want to reassure you that regardless of what you read on social media, law-abiding citizens who choose to exercise their second amendment rights by carrying their firearm do not go out on a daily basis “looking for a fight”. In reality, these law-abiding individuals are praying they will never have to use that firearm. I have not met a single concealed carry permit holder who wakes up hoping they will have to use their firearm in self-defense. These people know, just as I know, that the day they are forced to use their firearm in self-defense – many lives will change. Their life. The life of their attacker. The lives of countless friends and family members. The decisions to legally carry or act in self-defense are not taken lightly by law-abiding citizens.

Unfortunately, individuals who decide to use a gun to commit a crime or harm an innocent person do not care what laws we do or do not pass in the Ohio General Assembly. If someone is bent on killing another individual with a firearm, the laws we write on paper do not matter. But, law-abiding citizens should not, in a life or death situation, need to decide if they can run away from a place where they are lawfully allowed to be.

My right to defend myself from serious bodily harm or death does not change just because I am outside the walls of my home. My right to defend myself from serious bodily harm or death does not change if I am inside or outside my car. My right to defend myself from serious bodily harm or death should be extended to anywhere I am lawfully allowed to be.

House Bill 796 protects the rights and safety of law-abiding citizens in Ohio.

Chairman Hambley, thank you for allowing me to testify here today. I will gladly take questions.