

Institute for Legislative Action

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

December 1, 2020

Members of the Senate Government Oversight and Reform Committee:

My name is John Weber and I represent the National Rifle Association of America. The National Rifle Association and its members support Senate Bill 383 and applaud Senator Johnson for its introduction.

According to the U.S. Supreme Court, self-defense is the “central component” of the right protected by the Second Amendment. A robust right to keep and bear arms means little without strong legal protections for those forced to defend themselves against unlawful violence or aggression. For this reason, the NRA has and will continue to support laws that recognize the inherent and fundamental right of self-defense and that shift risks to those who provoke confrontations, rather than those who have no choice but to react to them.

“No duty to retreat” laws provide that a law-abiding person has no legal duty to run before resisting a criminal attack if the person is in any place he or she has a right to be.

All states, whether through legislation or judicial decisions, recognize the right to self-defense both within the home and in public. “No retreat” laws are the rule in a majority of states in the United States. According to NRA’s research, at least 27 states allow a person to use defensive force after being attacked without a retreat requirement if the victim is in any place where the person has a legal right to be.

The NRA supports this principle for several reasons. First, the availability of a “safe” retreat may seem far more evident to a jury calmly deliberating after the fact than to the person who was actually experiencing the stress of a life-or-death encounter. If a person facing an unlawful attack has to consider retreat or tries unsuccessfully to retreat, the unlawful aggressor may gain a crucial advantage in the very brief window the victim might have to effectively react.

Because the aggressor is the more morally culpable party, the NRA believes the aggressor should bear the risk that the victim is willing and able to stand and defend, rather than that the victim should bear the risk of hesitation or miscalculation regarding the feasibility of retreat. Also, requiring the victim to retreat basically allows violent criminals to chase people from where they are otherwise lawfully present. The NRA believes criminals should not decide who goes where in a free society.

Despite the many misconceptions surrounding “no duty to retreat” laws, the truth is, these laws do not protect those provoking a confrontation as a pretext to “fight back.” These laws do not protect “initial aggressors” whose own wrongful act results in self-defense being necessary.

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It does not protect those chasing or pursuing an attacker. For self-defense to be lawful, you must be in a true “fight or flight” situation.

It does not change the key elements of justified use of force law

Unlike what opponents to the law may claim, none of the elements underlying the justified use of force are changed by a “no duty to retreat” law.

Critics claim that no-retreat laws allow for the use of force where it could otherwise be avoided and therefore lead to needless violence (i.e., against the aggressor). Yet requiring a victim to retreat also creates a risk of miscalculation that could increase the risk of danger to the victim. Given that some degree of risk is unavoidable under either option, the NRA prefers that it accrue to the aggressor rather than to the victim.

“Duty to retreat” laws protect the unlawful attacker, not the innocent victim. A criminal in a “mandatory retreat” jurisdiction has good reason to believe a law-abiding person will have to attempt to escape before offering resistance, which means the criminal has less to risk by initiating a physically violent confrontation. On the other hand, in places without a “mandatory retreat” requirement the criminal must consider the possibility that the victim will respond in kind. The point of “no retreat” laws is to reallocate the risk of the encounter on the actual aggressor, rather than the innocent victim.

This bill removes the “mandatory retreat” element. It prohibits the criminal prosecution of victims for defending that which they have a right to defend. It prohibits civil lawsuits by criminals or relatives of criminals when criminals are injured or killed while attacking law-abiding people. This legislation respects and strengthens a person’s inherent right to self-defense.

It is for these reasons that the NRA encourage you to back this important piece of legislation. We respectfully requests that you support Senate Bill 383.

Sincerely,

A handwritten signature in black ink that reads "John Weber". The signature is written in a cursive, flowing style.

John Weber
State Director
NRA-ILA