

As Introduced

135th General Assembly

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H. B. No. 62

Representative Humphrey

Cosponsors: Representatives Miller, A., Upchurch, Russo, Weinstein, Grim,  
Isaacsohn, Skindell, Miranda, Brown, Somani, Forhan, Brent, Abdullahi

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A BILL

To amend sections 2307.601, 2901.05, and 2901.09 of  
the Revised Code to limit the locations at which  
a person has no duty to retreat.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 2307.601, 2901.05, and 2901.09 of  
the Revised Code be amended to read as follows:

**Sec. 2307.601.** (A) As used in this section:

(1) "Residence" ~~has and "vehicle" have the same meaning~~  
meanings as in section 2901.05 of the Revised Code.

(2) "Tort action" has the same meaning as in section  
2307.60 of the Revised Code.

(B) For purposes of determining the potential liability of  
a person in a tort action related to the person's use of force  
alleged to be in self-defense, defense of another, or defense of  
the person's residence, if the person lawfully is in that  
person's residence, the person has no duty to retreat before  
using force in self-defense, defense of another, or defense of

that person's residence, and, if the person lawfully is an 17  
occupant of that person-person's vehicle or lawfully is an 18  
occupant in a place in which vehicle owned by an immediate 19  
family member of the person-lawfully, the person has a right-no 20  
duty to-be retreat before using force in self-defense or defense 21  
of another. 22

~~(C) A trier of fact shall not consider the possibility of~~ 23  
~~retreat as a factor in determining whether or not a person who~~ 24  
~~used force in self-defense, defense of another, or defense of~~ 25  
~~that person's residence reasonably believed that the force was~~ 26  
~~necessary to prevent injury, loss, or risk to life or safety.~~ 27

**Sec. 2901.05.** (A) Every person accused of an offense is 28  
presumed innocent until proven guilty beyond a reasonable doubt, 29  
and the burden of proof for all elements of the offense is upon 30  
the prosecution. The burden of going forward with the evidence 31  
of an affirmative defense, and the burden of proof, by a 32  
preponderance of the evidence, for an affirmative defense other 33  
than self-defense, defense of another, or defense of the 34  
accused's residence ~~presented~~ as described in division (B)(1) of 35  
this section, is upon the accused. 36

(B)(1) A person is allowed to act in self-defense, defense 37  
of another, or defense of that person's residence. If, at the 38  
trial of a person who is accused of an offense that involved the 39  
person's use of force against another, there is evidence 40  
presented that tends to support that the accused person used the 41  
force in self-defense, defense of another, or defense of that 42  
person's residence, the prosecution must prove beyond a 43  
reasonable doubt that the accused person did not use the force 44  
in self-defense, defense of another, or defense of that person's 45  
residence, as the case may be. 46

(2) Subject to division (B) (3) of this section, a person  
is presumed to have acted in self-defense or defense of another  
when using defensive force that is intended or likely to cause  
death or great bodily harm to another if the person against whom  
the defensive force is used is in the process of unlawfully and  
without privilege to do so entering, or has unlawfully and  
without privilege to do so entered, the residence or vehicle  
occupied by the person using the defensive force.

(3) The presumption set forth in division (B) (2) of this  
section does not apply if either of the following is true:

(a) The person against whom the defensive force is used  
has a right to be in, or is a lawful resident of, the residence  
or vehicle.

(b) The person who uses the defensive force uses it while  
in a residence or vehicle and the person is unlawfully, and  
without privilege to be, in that residence or vehicle.

(4) The presumption set forth in division (B) (2) of this  
section is a rebuttable presumption and may be rebutted by a  
preponderance of the evidence, provided that the prosecution's  
burden of proof remains proof beyond a reasonable doubt as  
described in divisions (A) and (B) (1) of this section.

(C) As part of its charge to the jury in a criminal case,  
the court shall read the definitions of "reasonable doubt" and  
"proof beyond a reasonable doubt," contained in division (E) of  
this section.

(D) As used in this section:

(1) An "affirmative defense" is either of the following:

(a) A defense expressly designated as affirmative;

(b) A defense involving an excuse or justification 75  
peculiarly within the knowledge of the accused, on which the 76  
accused can fairly be required to adduce supporting evidence. 77

(2) "Dwelling" means a building or conveyance of any kind 78  
that has a roof over it and that is designed to be occupied by 79  
people lodging in the building or conveyance at night, 80  
regardless of whether the building or conveyance is temporary or 81  
permanent or is mobile or immobile. As used in this division, a 82  
building or conveyance includes, but is not limited to, an 83  
attached porch, and a building or conveyance with a roof over it 84  
includes, but is not limited to, a tent. 85

(3) "Residence" means a dwelling in which a person resides 86  
either temporarily or permanently or is visiting as a guest. 87

(4) "Vehicle" means a conveyance of any kind, whether or 88  
not motorized, that is designed to transport people or property. 89

(E) "Reasonable doubt" is present when the jurors, after 90  
they have carefully considered and compared all the evidence, 91  
cannot say they are firmly convinced of the truth of the charge. 92  
It is a doubt based on reason and common sense. Reasonable doubt 93  
is not mere possible doubt, because everything relating to human 94  
affairs or depending on moral evidence is open to some possible 95  
or imaginary doubt. "Proof beyond a reasonable doubt" is proof 96  
of such character that an ordinary person would be willing to 97  
rely and act upon it in the most important of the person's own 98  
affairs. 99

**Sec. 2901.09.** (A) As used in this section, "residence" ~~has~~ 100  
and "vehicle" have the same meaning-meanings as in section 101  
2901.05 of the Revised Code. 102

(B) For purposes of any section of the Revised Code that 103

sets forth a criminal offense, a person who lawfully is in that 104  
person's residence has no duty to retreat before using force in 105  
self-defense, defense of another, or defense of that person's 106  
residence ~~if~~, and a person who lawfully is an occupant of that 107  
~~person~~ person's vehicle or who lawfully is an occupant in a 108  
~~place in which~~ vehicle owned by an immediate family member of 109  
the person lawfully has ~~a right~~ no duty to ~~be~~ retreat before 110  
using force in self-defense or defense of another. 111

~~(C) A trier of fact shall not consider the possibility of~~ 112  
~~retreat as a factor in determining whether or not a person who~~ 113  
~~used force in self-defense, defense of another, or defense of~~ 114  
~~that person's residence reasonably believed that the force was~~ 115  
~~necessary to prevent injury, loss, or risk to life or safety.~~ 116

**Section 2.** That existing sections 2307.601, 2901.05, and 117  
2901.09 of the Revised Code are hereby repealed. 118