

FILED FEB 23 2006

JUDICIARY

SENATE FILE
BY MCKIBBEN

2274

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the justifiable use of reasonable force.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

JUDICIARY
SF 2274

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1 Section 1. Section 704.1, Code 2005, is amended to read as
2 follows:

3 704.1 REASONABLE FORCE.

4 "Reasonable force" is that force and no more which a
5 reasonable person, in like circumstances, would judge to be
6 necessary to prevent an injury or loss and can include deadly
7 force if it is reasonable to believe that such force is
8 necessary to avoid injury or risk to one's life or safety or
9 the life or safety of another, or it is reasonable to believe
10 that such force is necessary to resist a like force or threat.
11 Reasonable force, including deadly force, may be used even-if
12 ~~an-alternative-course-of-action-is-available-if-the~~
13 ~~alternative-entails-a-risk-to-life-or-safety,-or-the-life-or~~
14 ~~safety-of-a-third-party,-or-requires-one-to-abandon-or-retreat~~
15 ~~from-one's-dwelling-or-place-of-business-or-employment, and a~~
16 person has no duty to retreat, and has the right to stand the
17 person's ground, and meet force with force, if the person
18 believes reasonable force, including deadly force, is
19 necessary under the circumstances to prevent death or serious
20 injury to oneself or a third party, or to prevent the
21 commission of a forcible felony.

22 Sec. 2. NEW SECTION. 704.4A IMMUNITY.

23 1. A person who uses reasonable force shall be immune from
24 any criminal prosecution or civil action for using such force,
25 unless the person against whom such force is used is a peace
26 officer acting within the scope of the officer's duties and
27 the peace officer identifies their identity, or the person
28 knew or reasonably should have known the person is a peace
29 officer.

30 2. A law enforcement agency may use standard investigating
31 procedures for investigating the use of force, but the law
32 enforcement agency shall not arrest a person for using force
33 unless it determines there is probable cause that the force
34 was unlawful under this chapter.

35 3. If a person is arrested and it is later determined by a

1 court or jury that the person was justified in using
2 reasonable force under the circumstances, the person shall be
3 awarded reasonable attorney fees, court costs, compensation
4 for loss of any income, and reimbursement of any other
5 expenses incurred as a result of being arrested and charged.

6 EXPLANATION

7 This bill relates to the justifiable use of reasonable
8 force.

9 The bill provides that a person may use reasonable force,
10 including deadly force, and a person has no duty to retreat,
11 and has a right to stand the person's ground, and meet force
12 with force, if the person believes reasonable force, including
13 deadly force, is necessary under the circumstances to prevent
14 death or serious injury to oneself or a third party, or to
15 prevent the commission of a forcible felony.

16 Current law provides that a person may use reasonable
17 force, including deadly force, even if an alternative course
18 of action is available if the alternative entails a risk of
19 life or safety or the life or safety of a third party, or
20 requires one to abandon or retreat from one's residence or
21 place of business.

22 The bill also provides that a person who uses reasonable
23 force shall be immune from any criminal prosecution or civil
24 action for using such force, unless the person against whom
25 such force is used is a peace officer acting within the scope
26 of the officer's duties and the peace officer identifies their
27 identity, or the person knew or reasonably should have known
28 the person is a peace officer.

29 Under the bill, a law enforcement agency shall not arrest a
30 person for using force unless it determines there is probable
31 cause that the force was unlawful under Code chapter 704.

32 The bill also provides that if a person is arrested and it
33 is later determined by a court or jury that the person was
34 justified in using reasonable force under the circumstances,
35 the person shall be awarded reasonable attorney fees, court

S.F. 2274 H.F. _____

1 costs, compensation for loss of any income, and reimbursement
2 of any other expenses incurred as a result of being arrested
3 and charged.

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