

HOUSE BILL No. 1261

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-3.

Synopsis: Self-defense. Specifies that "reasonable force" includes the pointing of a loaded or unloaded firearm for purposes of arrest or to prevent an escape, or for self-defense.

Effective: July 1, 2023.

Lucas, Torr, Morrison

January 11, 2023, read first time and referred to Committee on Courts and Criminal Code.



Introduced

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1261

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-3-2, AS AMENDED BY P.L.107-2019,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 2. (a) In enacting this section, the general
4 assembly finds and declares that it is the policy of this state to
5 recognize the unique character of a citizen's home and to ensure that a
6 citizen feels secure in his or her own home against unlawful intrusion
7 by another individual or a public servant. By reaffirming the long
8 standing right of a citizen to protect his or her home against unlawful
9 intrusion, however, the general assembly does not intend to diminish
10 in any way the other robust self defense rights that citizens of this state
11 have always enjoyed. Accordingly, the general assembly also finds and
12 declares that it is the policy of this state that people have a right to
13 defend themselves and third parties from physical harm and crime. The
14 purpose of this section is to provide the citizens of this state with a
15 lawful means of carrying out this policy. Provisions concerning civil
16 immunity for the justified use of force as defined in this section are
17 codified under IC 34-30-31.

2023

IN 1261—LS 6265/DI 106



1 (b) As used in this section:

2 (1) "public servant" means a person described in
3 IC 35-31.5-2-129 or IC 35-31.5-2-185; **and**

4 (2) **"reasonable force" includes the pointing of a loaded or**
5 **unloaded firearm when used to prevent or terminate another**
6 **person's unlawful entry of or attack on the person's dwelling,**
7 **curtilage, fixed place of business, or occupied motor vehicle,**
8 **or on an aircraft in flight.**

9 (c) A person is justified in using reasonable force against any other
10 person to protect the person or a third person from what the person
11 reasonably believes to be the imminent use of unlawful force.
12 However, a person:

13 (1) is justified in using deadly force; and

14 (2) does not have a duty to retreat;

15 if the person reasonably believes that that force is necessary to prevent
16 serious bodily injury to the person or a third person or the commission
17 of a forcible felony. No person, employer, or estate of a person in this
18 state shall be placed in legal jeopardy of any kind whatsoever for
19 protecting the person or a third person by reasonable means necessary.

20 (d) A person:

21 (1) is justified in using reasonable force, including deadly force,
22 against any other person; and

23 (2) does not have a duty to retreat;

24 if the person reasonably believes that the force is necessary to prevent
25 or terminate the other person's unlawful entry of or attack on the
26 person's dwelling, curtilage, **fixed place of business**, or occupied motor
27 vehicle.

28 (e) With respect to property other than a dwelling, curtilage, **fixed**
29 **place of business**, or an occupied motor vehicle, a person is justified
30 in using reasonable force against any other person if the person
31 reasonably believes that the force is necessary to immediately prevent
32 or terminate the other person's trespass on or criminal interference with
33 property lawfully in the person's possession, lawfully in possession of
34 a member of the person's immediate family, or belonging to a person
35 whose property the person has authority to protect. However, a person:

36 (1) is justified in using deadly force; and

37 (2) does not have a duty to retreat;

38 only if that force is justified under subsection (c).

39 (f) A person is justified in using reasonable force, including deadly
40 force, against any other person and does not have a duty to retreat if the
41 person reasonably believes that the force is necessary to prevent or stop
42 the other person from hijacking, attempting to hijack, or otherwise



1 seizing or attempting to seize unlawful control of an aircraft in flight.
 2 For purposes of this subsection, an aircraft is considered to be in flight
 3 while the aircraft is:

- 4 (1) on the ground in Indiana:
 5 (A) after the doors of the aircraft are closed for takeoff; and
 6 (B) until the aircraft takes off;
 7 (2) in the airspace above Indiana; or
 8 (3) on the ground in Indiana:
 9 (A) after the aircraft lands; and
 10 (B) before the doors of the aircraft are opened after landing.

11 (g) Notwithstanding subsections (c) through (e), a person is not
 12 justified in using force if:

- 13 (1) the person is committing or is escaping after the commission
 14 of a crime;
 15 (2) the person provokes unlawful action by another person with
 16 intent to cause bodily injury to the other person; or
 17 (3) the person has entered into combat with another person or is
 18 the initial aggressor unless the person withdraws from the
 19 encounter and communicates to the other person the intent to do
 20 so and the other person nevertheless continues or threatens to
 21 continue unlawful action.

22 (h) Notwithstanding subsection (f), a person is not justified in using
 23 force if the person:

- 24 (1) is committing, or is escaping after the commission of, a crime;
 25 (2) provokes unlawful action by another person, with intent to
 26 cause bodily injury to the other person; or
 27 (3) continues to combat another person after the other person
 28 withdraws from the encounter and communicates the other
 29 person's intent to stop hijacking, attempting to hijack, or
 30 otherwise seizing or attempting to seize unlawful control of an
 31 aircraft in flight.

32 (i) A person is justified in using reasonable force against a public
 33 servant if the person reasonably believes the force is necessary to:

- 34 (1) protect the person or a third person from what the person
 35 reasonably believes to be the imminent use of unlawful force;
 36 (2) prevent or terminate the public servant's unlawful entry of or
 37 attack on the person's dwelling, curtilage, **fixed place of business**,
 38 or occupied motor vehicle; or
 39 (3) prevent or terminate the public servant's unlawful trespass on
 40 or criminal interference with property lawfully in the person's
 41 possession, lawfully in possession of a member of the person's
 42 immediate family, or belonging to a person whose property the



- 1 person has authority to protect.
- 2 (j) Notwithstanding subsection (i), a person is not justified in using
3 force against a public servant if:
- 4 (1) the person is committing or is escaping after the commission
5 of a crime;
- 6 (2) the person provokes action by the public servant with intent to
7 cause bodily injury to the public servant;
- 8 (3) the person has entered into combat with the public servant or
9 is the initial aggressor, unless the person withdraws from the
10 encounter and communicates to the public servant the intent to do
11 so and the public servant nevertheless continues or threatens to
12 continue unlawful action; or
- 13 (4) the person reasonably believes the public servant is:
- 14 (A) acting lawfully; or
- 15 (B) engaged in the lawful execution of the public servant's
16 official duties.
- 17 (k) A person is not justified in using deadly force against a public
18 servant whom the person knows or reasonably should know is a public
19 servant unless:
- 20 (1) the person reasonably believes that the public servant is:
- 21 (A) acting unlawfully; or
- 22 (B) not engaged in the execution of the public servant's official
23 duties; and
- 24 (2) the force is reasonably necessary to prevent serious bodily
25 injury to the person or a third person.
- 26 SECTION 2. IC 35-41-3-3, AS AMENDED BY P.L.12-2021,
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2023]: Sec. 3. (a) The following definitions apply throughout
29 this section:
- 30 (1) "Chokehold" means applying pressure to the throat or neck of
31 another person in a manner intended to obstruct the airway of the
32 other person.
- 33 (2) "Deadly force" includes a chokehold.
- 34 **(3) "Reasonable force" includes the pointing of a loaded or
35 unloaded firearm.**
- 36 (b) A person other than a law enforcement officer is justified in
37 using reasonable force against another person to effect an arrest or
38 prevent the other person's escape if:
- 39 (1) a felony has been committed; and
- 40 (2) there is probable cause to believe the other person committed
41 that felony.
- 42 However, such a person is not justified in using deadly force unless that



- 1 force is justified under section 2 of this chapter.
- 2 (c) A law enforcement officer is justified in using reasonable force
- 3 if the officer reasonably believes that the force is necessary to enforce
- 4 a criminal law or to effect a lawful arrest. However, an officer is
- 5 justified in using deadly force only if the officer:
- 6 (1) has probable cause to believe that that deadly force is
- 7 necessary:
- 8 (A) to prevent the commission of a forcible felony; or
- 9 (B) to effect an arrest of a person who the officer has probable
- 10 cause to believe poses a threat of serious bodily injury to the
- 11 officer or a third person; and
- 12 (2) has given a warning, if feasible, to the person against whom
- 13 the deadly force is to be used.
- 14 (d) A law enforcement officer making an arrest under an invalid
- 15 warrant is justified in using force as if the warrant was valid, unless the
- 16 officer knows that the warrant is invalid.
- 17 (e) A law enforcement officer who has an arrested person in custody
- 18 is justified in using the same force to prevent the escape of the arrested
- 19 person from custody that the officer would be justified in using if the
- 20 officer was arresting that person. However, an officer is justified in
- 21 using deadly force only if the officer:
- 22 (1) has probable cause to believe that deadly force is necessary to
- 23 prevent the escape from custody of a person who the officer has
- 24 probable cause to believe poses a threat of serious bodily injury
- 25 to the officer or a third person; and
- 26 (2) has given a warning, if feasible, to the person against whom
- 27 the deadly force is to be used.
- 28 (f) A guard or other official in a penal facility or a law enforcement
- 29 officer is justified in using reasonable force, including deadly force, if
- 30 the officer has probable cause to believe that the force is necessary to
- 31 prevent the escape of a person who is detained in the penal facility.
- 32 (g) Notwithstanding subsection (c), (e), or (f), a guard, penal facility
- 33 official, or law enforcement officer who is a defendant in a criminal
- 34 prosecution has the same right as a person who is not a guard, penal
- 35 facility official, or law enforcement officer to assert self-defense under
- 36 ~~IC 35-41-3-2.~~ **section 2 of this chapter.**

