

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4878

By Delegates Mazzocchi, Butler, Kimble, Crouse, T.

Howell, Ridenour, Dillon, Funkhouser, Horst and

Phillips

[Introduced January 28, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §55-7-22 of the Code of West Virginia, 1931, as amended, relating to
2 strengthening the West Virginia castle doctrine; providing for the use of force, including
3 deadly force, in defense of self, real, and personal property in a residence, or on curtilage
4 whereupon the home or other place of residence is located; providing a complete defense
5 from civil and/or criminal prosecution against persons lawfully using force in defensive
6 actions; and providing for the receipt of court costs, fees, and expenses for persons acting
7 to protect self, real, and personal property, another person or in certain civil actions,
8 providing what constitutes justified use of deadly force in defense of another

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES AND ACTIONS RELATING TO NECESSARY
DEADLY FORCE.

**§55-7-22. Civil and criminal relief for persons resisting certain criminal activities; civil and
criminal relief for persons resisting certain criminal activities and using permitted
force and acting within the law for the use of that force; exceptions to relief;
nonapplication of relief when person creates a hazardous or dangerous condition;
providing civil remedies in civil actions relating to justified use of force; use of
deadly force in defense of others.**

1 (a) A lawful occupant within a home or other place of residence is justified in using
2 reasonable and proportionate force, including deadly force, against an intruder or attacker to
3 prevent a forcible entry into the home or residence or to terminate the intruder's or attacker's
4 unlawful entry if the occupant reasonably apprehends that the intruder or attacker may kill or inflict
5 serious bodily harm upon the occupant or others in the home or residence or if the occupant
6 reasonably believes that the intruder or attacker intends to commit a felony in the home or
7 residence and the occupant reasonably believes deadly force is necessary.

8 (b) A lawful occupant within a home or other place of residence does not have a duty to

9 retreat from an intruder or attacker in the circumstances described in subsection (a) of this section.

10 (c) A person not engaged in unlawful activity who is attacked in any place ~~he or she has a~~
11 ~~legal right to be outside~~ within the curtilage of his or her home or other place of residence, may use
12 reasonable and proportionate force, including deadly force, against an intruder or attacker to
13 prevent forcible entry into the curtilage or home or other place of residence or to terminate the
14 intruder's, or attacker's, unlawful entry upon the curtilage or home or other place of residence
15 without a duty to retreat if the person reasonably believes that the intruder or attacker may kill or
16 inflict serious bodily harm upon the person, or others, on the curtilage whereupon the home or
17 residence is located, or if the person reasonably believes that the intruder or attacker intends to
18 commit a felony upon the home or other place of residence, or upon the curtilage whereupon the
19 home or other place of residence is located and the occupant reasonably believes deadly force is
20 necessary: ~~Provided, That such person may use deadly force against an intruder or attacker in a~~
21 place that is not his or her residence without a duty to retreat if the person reasonably believes that
22 he or she or another is in imminent danger of death or serious bodily harm from which he or she or
23 another can only be saved by the use of deadly force against the intruder or attacker.

24 (d) A person may use deadly force against an intruder or attacker in a place that is not his
25 or her residence if the person reasonably believes that he or she, or another, is in imminent danger
26 of death or serious bodily harm.

27 ~~(d)~~ (e) The justified use of reasonable and proportionate force under this section shall
28 constitute a full and complete defense to any civil action brought by an intruder or attacker against
29 a person using such force. The justified use of reasonable and proportionate force under this
30 section shall constitute a complete defense to any criminal action.

31 ~~(e)~~ (f) The full and complete civil and criminal defense created by the provisions of this
32 section is not available to a person who:

33 (1) Is attempting to commit, committing, or escaping from the commission of a felony;

34 (2) Initially provokes the use of force against himself, herself, or another with the intent to

35 use such force as an excuse to inflict bodily harm upon the assailant; or

36 (3) Otherwise initially provokes the use of force against himself, herself, or another, unless
37 he or she withdraws from physical contact with the assailant and indicates clearly to the assailant
38 that he or she desires to withdraw and terminate the use of force, but the assailant continues or
39 resumes the use of force.

40 (f) (g) The provisions of this section do not apply to the creation of a hazardous or
41 dangerous condition on or in any real or personal property designed to prevent criminal conduct or
42 cause injury to a person engaging in criminal conduct.

43 (g) (h) Nothing in this section shall may authorize or justify a person to resist or obstruct a
44 law-enforcement officer acting in the ~~course~~ scope of his or her duty.

45 (i) A court of proper jurisdiction may award reasonable attorney's fees, court costs, and all
46 expenses incurred by a person in defense of any civil action or claim filed by an intruder or attacker
47 or their representative when that civil action is dismissed, or a verdict is rendered in favor of the
48 person defending the civil action, because of the complete defense provided in this section of the
49 code.

50 (j) A court of proper jurisdiction may award reasonable attorney's fees, court costs, and all
51 expenses incurred by a person who files a civil action because that person was criminally
52 prosecuted and a judge or jury rendered an acquittal, or dismissal with prejudice, in the underlying
53 criminal action because of the complete defense provided in this section of the code.

54 (k) For purposes of subsection (d) of this section, protection of another by use of deadly
55 force upon another person is justifiable when:

56 (1) A reasonable person would believe that such deadly force is necessary to protect a
57 third person from imminent danger of death or serious bodily injury; and

58 (2) Under the circumstances as the reasonable person believes them to be, the person
59 whom he seeks to protect would himself have been justified under the law in taking such action.

60 (l) Nothing in this section shall be constructed by a court in a manner that in any way limits

61 the common law right of lawful self defense.

NOTE: The purpose of this bill is to strengthen the West Virginia castle doctrine. The bill provides a complete defense from civil and/or criminal prosecution against persons lawfully using force in defensive actions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.