

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 476

Short Title: Castle Doctrine for NC.

(Public)

Sponsors: Representatives Hilton, J. Harrell, Moore, Frye (Primary Sponsors); Almond, Barnhart, Blust, Cleveland, Coates, Faison, Folwell, Gulley, Holloway, Killian, McGee, Pate, Setzer, Spear, Steen, Underhill, Walend, Walker, and Williams.

Referred to: Judiciary II.

March 5, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHEN A PERSON MAY USE FORCE TO DEFEND HIMSELF OR HERSELF OR ANOTHER PERSON OR TO PREVENT THE IMMINENT COMMISSION OF A FORCIBLE FELONY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-18.10. Use of force in defense of person or to prevent a forcible felony; immunity from criminal prosecution and civil action for use of justifiable force.

(a) Definitions. – The following definitions apply in this section:

(1) Criminal prosecution. – The term includes arresting, detaining in custody, and charging or prosecuting the defendant.

(2) Deadly force. – Force that is likely to cause death or great bodily harm.

(3) Forcible felony. – Treason, murder, manslaughter, sexual battery, robbery, burglary, arson, kidnapping, aggravated assault, stalking, and any felony that involves the use or threat of physical force or violence against any individual.

(b) Use of Force in Defense of Person. – A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that the conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if:

(1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony; or

1 (2) Under those circumstances permitted pursuant to G.S. 14-51.1.

2 (c) Immunity from Criminal Prosecution and Civil Action for Damages. – A
3 person who uses force as permitted in subsection (b) of this section is justified in using
4 such force and is immune from criminal prosecution and civil action for the use of such
5 force. A law enforcement agency may use standard procedures for investigating the use
6 of force as described in subsection (b) of this section, but the agency may not arrest the
7 person for using force unless it determines that there is probable cause that the force that
8 was used was unlawful. The court shall award reasonable attorneys' fees, court costs,
9 compensation for loss of income, and all expenses incurred by the defendant in defense
10 of any civil action brought by a plaintiff if the court finds that the defendant is immune
11 from prosecution as provided in this subsection.

12 (d) Use of Force by Aggressor. – The justification described in subsection (b) of
13 this section is not available to a person who is attempting to commit, committing, or
14 escaping after the commission of, a forcible felony, or initially provokes the use of force
15 against himself or herself unless one of the following situations exists:

16 (1) The force is so great that the person reasonably believes that he or she
17 is in imminent danger of death or great bodily harm and that he or she
18 has exhausted every reasonable means to escape such danger other
19 than the use of force which is likely to cause death or great bodily
20 harm to the assailant.

21 (2) In good faith, the person withdraws from physical contact with the
22 assailant and indicates clearly to the assailant that he or she desires to
23 withdraw and terminate the use of force, but the assailant continues or
24 resumes the use of force."

25 **SECTION 2.** This act becomes effective December 1, 2007.