

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5621**

By Delegates Kimble, Jeffries, McGeehan, Worrell,  
Street, Mazzocchi, Dittman, Heckert, Foggin, Kirby,  
and Moore

[Originating in the Committee on the Judiciary;

Reported on February 19, 2024]



1 A BILL to amend and reenact §55-7-22 of the Code of West Virginia, 1931, as amended, relating to  
2 employment protections for employees who utilize reasonable and proportionate force in  
3 defending themselves or others; and providing that such person may use deadly force  
4 against an attacker in their place of employment, without a duty to retreat, if the person  
5 reasonably believes that he or she or another is in imminent danger of death or serious  
6 bodily harm from which he or she or another can only be saved by the use of deadly force  
7 against the intruder or attacker.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 7. ACTIONS FOR INJURIES.**

**§55-7-22. Civil relief for persons resisting certain criminal activities.**

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 of his or her home or residence may use reasonable and proportionate  
12 force against an intruder or attacker: *Provided*, That such person may use deadly force against an  
13 intruder or attacker in a place that is not his or her residence without a duty to retreat if the person  
14 reasonably believes that he or she or another is in imminent danger of death or serious bodily  
15 harm from which he or she or another can only be saved by the use of deadly force against the  
16 intruder or attacker.

17 (d) The justified use of reasonable and proportionate force under this section shall  
18 constitute a full and complete defense to any civil action brought by an intruder or attacker against  
19 a person using such force.

20 (e) The full and complete civil defense created by the provisions of this section is not  
21 available to a person who:

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

23 (2) Initially provokes the use of force against himself, herself, or another with the intent to  
24 use such force as an excuse to inflict bodily harm upon the assailant; or

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

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

32 (g) Nothing in this section shall authorize or justify a person to resist or obstruct a law-  
33 enforcement officer acting in the course of his or her duty.

34 (h) Any person who is physically attacked, or in reasonable apprehension of being  
35 physically attacked, by another person, who is not an employee co-worker, at their place of  
36 employment and uses reasonable and proportionate force to defend themselves or others shall  
37 not be subject to adverse actions by their employer, including, but not limited to, termination of  
38 their employment solely for the act of such use of reasonable and proportionate force: *Provided,*  
39 That such person may use deadly force against an attacker in their place of employment, without a  
40 duty to retreat, if the person reasonably believes that he or she or another is in imminent danger of  
41 death or serious bodily harm from which he or she or another can only be saved by the use of  
42 deadly force against the intruder or attacker.

NOTE: The purpose of this bill is to protect workers who defend themselves or others from an attack from another from termination of employment.

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