
By: **Delegates Cluster, Boteler, Aumann, Bates, Boschert, Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Hogan, Impallaria, Jennings, Kach, Kelly, Krebs, Mayer, McComas, McConkey, McDonough, McKee, McMillan, Miller, Myers, O'Donnell, Parrott, Shank, Smigiel, Sossi, Stocksdale, Trueschler, and Weldon**

Introduced and read first time: February 2, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Protection of Persons and Property - Immunity**

3 FOR the purpose of providing that a person is justified in using force, except deadly
4 force, against another under certain circumstances; providing that a person is
5 justified in using deadly force under certain circumstances; providing that a
6 certain person has no duty to retreat under certain circumstances; providing
7 that a person is presumed to have reasonably believed that the use of deadly
8 force was necessary under certain circumstances; providing that a certain
9 person is presumed to be acting with a certain intent under certain
10 circumstances; providing that a certain person is immune from criminal
11 prosecution and civil action under certain circumstances; requiring the court to
12 award certain fees, costs, compensation, and expenses to a certain person under
13 certain circumstances; defining certain terms; creating certain exceptions; and
14 generally relating to immunity for those who act in protection of persons and
15 property.

16 BY adding to
17 Article - Criminal Law
18 Section 2-210
19 Annotated Code of Maryland
20 (2002 Volume and 2005 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Criminal Law**

24 2-210.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

1 (2) (I) "DWELLING" MEANS A TEMPORARY OR PERMANENT BUILDING
2 OR CONVEYANCE THAT:

- 3 1. HAS A ROOF OVER IT; AND
- 4 2. IS DESIGNED TO LODGE PEOPLE AT NIGHT.

5 (II) "DWELLING" INCLUDES:

- 6 1. A PORCH ATTACHED TO A DWELLING; AND
- 7 2. A TENT.

8 (3) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN §
9 3-101 OF THE PUBLIC SAFETY ARTICLE.

10 (4) "VEHICLE" MEANS A CONVEYANCE, WHETHER OR NOT MOTORIZED,
11 THAT IS DESIGNED TO TRANSPORT PEOPLE OR PROPERTY.

12 (B) A PERSON IS JUSTIFIED IN USING FORCE, EXCEPT DEADLY FORCE,
13 AGAINST ANOTHER IF THE PERSON REASONABLY BELIEVES THAT THE USE OF
14 FORCE IS NECESSARY TO:

15 (1) DEFEND THE PERSON OR A THIRD PERSON AGAINST THE OTHER'S
16 IMMINENT USE OF UNLAWFUL FORCE; OR

17 (2) PREVENT OR TERMINATE THE OTHER'S TRESPASS ON OR
18 INTERFERENCE WITH REAL PROPERTY:

19 (I) IN WHICH THE PERSON HAS A POSSESSORY INTEREST;

20 (II) IN WHICH A MEMBER OF THE PERSON'S IMMEDIATE FAMILY OR
21 HOUSEHOLD HAS A POSSESSORY INTEREST; OR

22 (III) THAT THE PERSON HAS A LEGAL DUTY TO PROTECT.

23 (C) A PERSON IS JUSTIFIED IN USING DEADLY FORCE IF THE PERSON
24 REASONABLY BELIEVES THAT THE USE OF DEADLY FORCE IS NECESSARY TO
25 PREVENT:

26 (1) IMMINENT DEATH OR SERIOUS BODILY HARM TO THE PERSON OR
27 ANOTHER; OR

28 (2) THE IMMINENT COMMISSION OF A FORCIBLE FELONY.

29 (D) A PERSON WHO IS NOT ENGAGED IN UNLAWFUL ACTIVITY AND IS IN A
30 PLACE WHERE THE PERSON HAS A RIGHT TO BE HAS NO DUTY TO RETREAT WHEN
31 ATTACKED OR THREATENED WITH THE USE OF FORCE.

1 (E) (1) A PERSON IS PRESUMED TO HAVE REASONABLY BELIEVED THAT THE
2 USE OF DEADLY FORCE WAS NECESSARY, IN ACCORDANCE WITH SUBSECTION (C) OF
3 THIS SECTION, IF THE PERSON AGAINST WHOM THE DEADLY FORCE WAS USED:

4 (I) WAS IN THE PROCESS OF UNLAWFULLY AND FORCIBLY
5 ENTERING, OR HAD UNLAWFULLY AND FORCIBLY ENTERED, A DWELLING OR
6 OCCUPIED VEHICLE; OR

7 (II) HAD REMOVED OR WAS ATTEMPTING TO REMOVE A THIRD
8 PERSON FROM A DWELLING OR OCCUPIED VEHICLE AGAINST THE THIRD PERSON'S
9 WILL.

10 (2) THE PRESUMPTION SET FORTH IN PARAGRAPH (1) OF THIS
11 SUBSECTION DOES NOT APPLY IF:

12 (I) THE PERSON AGAINST WHOM THE DEADLY FORCE WAS USED
13 HAD THE RIGHT TO BE IN THE DWELLING OR VEHICLE;

14 (II) THE PERSON AGAINST WHOM THE DEADLY FORCE WAS USED
15 HAD REMOVED OR WAS ATTEMPTING TO REMOVE A THIRD PERSON WHO WAS IN THE
16 PERSON'S LAWFUL CUSTODY OR GUARDIANSHIP FROM THE DWELLING OR VEHICLE;

17 (III) THE PERSON USING DEADLY FORCE WAS ENGAGED IN AN
18 UNLAWFUL ACTIVITY; OR

19 (IV) THE PERSON USING DEADLY FORCE KNEW OR REASONABLY
20 SHOULD HAVE KNOWN THAT THE PERSON ENTERING OR ATTEMPTING TO ENTER
21 WAS A LAW ENFORCEMENT OFFICER ACTING IN THE PERFORMANCE OF OFFICIAL
22 DUTY.

23 (F) A PERSON WHO UNLAWFULLY AND FORCIBLY ENTERS OR ATTEMPTS TO
24 ENTER A PERSON'S DWELLING OR OCCUPIED VEHICLE IS PRESUMED TO BE DOING SO
25 WITH THE INTENT TO COMMIT A FORCIBLE FELONY.

26 (G) A PERSON WHO IS JUSTIFIED IN USING FORCE IN ACCORDANCE WITH THIS
27 SECTION IS IMMUNE FROM CRIMINAL PROSECUTION AND CIVIL ACTION FOR THE
28 USE OF THAT FORCE, UNLESS THE PERSON KNEW OR REASONABLY SHOULD HAVE
29 KNOWN THAT THE PERSON AGAINST WHOM THE FORCE WAS USED WAS A LAW
30 ENFORCEMENT OFFICER ACTING IN THE PERFORMANCE OF OFFICIAL DUTY.

31 (H) THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES, COURT
32 COSTS, COMPENSATION FOR LOSS OF INCOME, AND ALL EXPENSES INCURRED BY
33 THE DEFENDANT IN DEFENSE OF ANY CIVIL ACTION BROUGHT AGAINST THE
34 DEFENDANT FOR THE IMPROPER USE OF FORCE IF THE COURT FINDS THAT THE
35 DEFENDANT IS IMMUNE FROM PROSECUTION UNDER SUBSECTION (G) OF THIS
36 SECTION.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 2006.