

HOUSE BILL 252

E2, N1
HB 589/06 – JUD

6lr1817

By: **Delegates Cluster, Arentz, Beitzel, Bromwell, Conaway, Glass, Grammer, Hornberger, Kipke, Krebs, Long, McComas, McDonough, McKay, Metzgar, Morgan, Morhaim, O'Donnell, Otto, Reilly, Rey, Rose, Shoemaker, Vogt, B. Wilson, and C. Wilson**

Introduced and read first time: January 25, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Protection of Persons and Property – Criminal Immunity**

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

13 BY adding to
14 Article – Criminal Law
15 Section 2–211
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2015 Supplement)

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

20 **Article – Criminal Law**

21 **2–211.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2) (I) “DWELLING” MEANS A TEMPORARY OR PERMANENT**
4 **BUILDING OR CONVEYANCE THAT:**

5 **1. HAS A ROOF OVER IT; AND**

6 **2. IS DESIGNED TO LODGE PEOPLE AT NIGHT.**

7 **(II) “DWELLING” INCLUDES:**

8 **1. A PORCH ATTACHED TO A DWELLING; AND**

9 **2. A TENT.**

10 **(3) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN §**
11 **3–101 OF THE PUBLIC SAFETY ARTICLE.**

12 **(4) “VEHICLE” MEANS A CONVEYANCE, WHETHER OR NOT**
13 **MOTORIZED, THAT IS DESIGNED TO TRANSPORT PEOPLE OR PROPERTY.**

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

17 **(1) DEFEND THE PERSON OR A THIRD PERSON AGAINST THE OTHER’S**
18 **IMMINENT USE OF UNLAWFUL FORCE; OR**

19 **(2) PREVENT OR TERMINATE THE OTHER’S TRESPASS ON OR**
20 **INTERFERENCE WITH REAL PROPERTY:**

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

22 **(II) IN WHICH A MEMBER OF THE PERSON’S IMMEDIATE FAMILY**
23 **OR HOUSEHOLD HAS A POSSESSORY INTEREST; OR**

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

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

1 **(1) IMMEDIATE DEATH OR SERIOUS BODILY HARM TO THE PERSON OR**
2 **ANOTHER; OR**

3 **(2) THE IMMEDIATE COMMISSION OF A FORCIBLE FELONY.**

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

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

11 **(I) WAS IN THE PROCESS OF UNLAWFULLY AND FORCIBLY**
12 **ENTERING, OR HAD UNLAWFULLY AND FORCIBLY ENTERED, A DWELLING OR**
13 **OCCUPIED VEHICLE; OR**

14 **(II) HAD REMOVED OR WAS ATTEMPTING TO REMOVE A THIRD**
15 **PERSON FROM A DWELLING OR OCCUPIED VEHICLE AGAINST THE THIRD PERSON'S**
16 **WILL.**

17 **(2) THE PRESUMPTION SET FORTH IN PARAGRAPH (1) OF THIS**
18 **SUBSECTION DOES NOT APPLY IF:**

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

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

24 **(III) THE PERSON USING DEADLY FORCE WAS ENGAGED IN AN**
25 **UNLAWFUL ACTIVITY; OR**

26 **(IV) THE PERSON USING DEADLY FORCE KNEW OR REASONABLY**
27 **SHOULD HAVE KNOWN THAT THE PERSON ENTERING OR ATTEMPTING TO ENTER**
28 **WAS A LAW ENFORCEMENT OFFICER ACTING IN THE PERFORMANCE OF OFFICIAL**
29 **DUTY.**

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

1 **(G) A PERSON WHO IS JUSTIFIED IN USING FORCE IN ACCORDANCE WITH**
2 **THIS SECTION IS IMMUNE FROM CRIMINAL PROSECUTION FOR THE USE OF THAT**
3 **FORCE, UNLESS THE PERSON KNEW OR REASONABLY SHOULD HAVE KNOWN THAT**
4 **THE PERSON AGAINST WHOM THE FORCE WAS USED WAS A LAW ENFORCEMENT**
5 **OFFICER ACTING IN THE PERFORMANCE OF OFFICIAL DUTY.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2016.