

# SENATE BILL No. 199

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-41-3.

**Synopsis:** Self-defense. Specifies that "reasonable force" includes the pointing of a loaded or unloaded firearm for purposes of self-defense and arrest statutes.

**Effective:** July 1, 2021.

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January 5, 2021, read first time and referred to Committee on Corrections and Criminal Law.

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First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## SENATE BILL No. 199

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-41-3-2, AS AMENDED BY P.L.107-2019,  
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 2. (a) In enacting this section, the general  
4 assembly finds and declares that it is the policy of this state to  
5 recognize the unique character of a citizen's home and to ensure that a  
6 citizen feels secure in his or her own home against unlawful intrusion  
7 by another individual or a public servant. By reaffirming the long  
8 standing right of a citizen to protect his or her home against unlawful  
9 intrusion, however, the general assembly does not intend to diminish  
10 in any way the other robust self defense rights that citizens of this state  
11 have always enjoyed. Accordingly, the general assembly also finds and  
12 declares that it is the policy of this state that people have a right to  
13 defend themselves and third parties from physical harm and crime. The  
14 purpose of this section is to provide the citizens of this state with a  
15 lawful means of carrying out this policy. Provisions concerning civil  
16 immunity for the justified use of force as defined in this section are  
17 codified under IC 34-30-31.



- 1 (b) As used in this section:
- 2 (1) "public servant" means a person described in
- 3 IC 35-31.5-2-129 or IC 35-31.5-2-185; **and**
- 4 (2) **"reasonable force" includes the pointing of a loaded or**
- 5 **unloaded firearm.**
- 6 (c) A person is justified in using reasonable force against any other
- 7 person to protect the person or a third person from what the person
- 8 reasonably believes to be the imminent use of unlawful force.
- 9 However, a person:
- 10 (1) is justified in using deadly force; and
- 11 (2) does not have a duty to retreat;
- 12 if the person reasonably believes that that force is necessary to prevent
- 13 serious bodily injury to the person or a third person or the commission
- 14 of a forcible felony. No person, employer, or estate of a person in this
- 15 state shall be placed in legal jeopardy of any kind whatsoever for
- 16 protecting the person or a third person by reasonable means necessary.
- 17 (d) A person:
- 18 (1) is justified in using reasonable force, including deadly force,
- 19 against any other person; and
- 20 (2) does not have a duty to retreat;
- 21 if the person reasonably believes that the force is necessary to prevent
- 22 or terminate the other person's unlawful entry of or attack on the
- 23 person's dwelling, curtilage, or occupied motor vehicle.
- 24 (e) With respect to property other than a dwelling, curtilage, or an
- 25 occupied motor vehicle, a person is justified in using reasonable force
- 26 against any other person if the person reasonably believes that the force
- 27 is necessary to immediately prevent or terminate the other person's
- 28 trespass on or criminal interference with property lawfully in the
- 29 person's possession, lawfully in possession of a member of the person's
- 30 immediate family, or belonging to a person whose property the person
- 31 has authority to protect. However, a person:
- 32 (1) is justified in using deadly force; and
- 33 (2) does not have a duty to retreat;
- 34 only if that force is justified under subsection (c).
- 35 (f) A person is justified in using reasonable force, including deadly
- 36 force, against any other person and does not have a duty to retreat if the
- 37 person reasonably believes that the force is necessary to prevent or stop
- 38 the other person from hijacking, attempting to hijack, or otherwise
- 39 seizing or attempting to seize unlawful control of an aircraft in flight.
- 40 For purposes of this subsection, an aircraft is considered to be in flight
- 41 while the aircraft is:
- 42 (1) on the ground in Indiana:



- 1 (A) after the doors of the aircraft are closed for takeoff; and  
 2 (B) until the aircraft takes off;  
 3 (2) in the airspace above Indiana; or  
 4 (3) on the ground in Indiana:  
 5 (A) after the aircraft lands; and  
 6 (B) before the doors of the aircraft are opened after landing.  
 7 (g) Notwithstanding subsections (c) through (e), a person is not  
 8 justified in using force if:  
 9 (1) the person is committing or is escaping after the commission  
 10 of a crime;  
 11 (2) the person provokes unlawful action by another person with  
 12 intent to cause bodily injury to the other person; or  
 13 (3) the person has entered into combat with another person or is  
 14 the initial aggressor unless the person withdraws from the  
 15 encounter and communicates to the other person the intent to do  
 16 so and the other person nevertheless continues or threatens to  
 17 continue unlawful action.  
 18 (h) Notwithstanding subsection (f), a person is not justified in using  
 19 force if the person:  
 20 (1) is committing, or is escaping after the commission of, a crime;  
 21 (2) provokes unlawful action by another person, with intent to  
 22 cause bodily injury to the other person; or  
 23 (3) continues to combat another person after the other person  
 24 withdraws from the encounter and communicates the other  
 25 person's intent to stop hijacking, attempting to hijack, or  
 26 otherwise seizing or attempting to seize unlawful control of an  
 27 aircraft in flight.  
 28 (i) A person is justified in using reasonable force against a public  
 29 servant if the person reasonably believes the force is necessary to:  
 30 (1) protect the person or a third person from what the person  
 31 reasonably believes to be the imminent use of unlawful force;  
 32 (2) prevent or terminate the public servant's unlawful entry of or  
 33 attack on the person's dwelling, curtilage, or occupied motor  
 34 vehicle; or  
 35 (3) prevent or terminate the public servant's unlawful trespass on  
 36 or criminal interference with property lawfully in the person's  
 37 possession, lawfully in possession of a member of the person's  
 38 immediate family, or belonging to a person whose property the  
 39 person has authority to protect.  
 40 (j) Notwithstanding subsection (i), a person is not justified in using  
 41 force against a public servant if:  
 42 (1) the person is committing or is escaping after the commission



- 1 of a crime;
- 2 (2) the person provokes action by the public servant with intent to
- 3 cause bodily injury to the public servant;
- 4 (3) the person has entered into combat with the public servant or
- 5 is the initial aggressor, unless the person withdraws from the
- 6 encounter and communicates to the public servant the intent to do
- 7 so and the public servant nevertheless continues or threatens to
- 8 continue unlawful action; or
- 9 (4) the person reasonably believes the public servant is:
- 10 (A) acting lawfully; or
- 11 (B) engaged in the lawful execution of the public servant's
- 12 official duties.
- 13 (k) A person is not justified in using deadly force against a public
- 14 servant whom the person knows or reasonably should know is a public
- 15 servant unless:
- 16 (1) the person reasonably believes that the public servant is:
- 17 (A) acting unlawfully; or
- 18 (B) not engaged in the execution of the public servant's official
- 19 duties; and
- 20 (2) the force is reasonably necessary to prevent serious bodily
- 21 injury to the person or a third person.
- 22 SECTION 2. IC 35-41-3-3 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. **(a) As used in this**
- 24 **section, "reasonable force" includes the pointing of a loaded or**
- 25 **unloaded firearm.**
- 26 ~~(a)~~ **(b)** A person other than a law enforcement officer is justified in
- 27 using reasonable force against another person to effect an arrest or
- 28 prevent the other person's escape if:
- 29 (1) a felony has been committed; and
- 30 (2) there is probable cause to believe the other person committed
- 31 that felony.
- 32 However, such a person is not justified in using deadly force unless that
- 33 force is justified under section 2 of this chapter.
- 34 ~~(b)~~ **(c)** A law enforcement officer is justified in using reasonable
- 35 force if the officer reasonably believes that the force is necessary to
- 36 effect a lawful arrest. However, an officer is justified in using deadly
- 37 force only if the officer:
- 38 (1) has probable cause to believe that ~~that~~ deadly force is
- 39 necessary:
- 40 (A) to prevent the commission of a forcible felony; or
- 41 (B) to effect an arrest of a person who the officer has probable
- 42 cause to believe poses a threat of serious bodily injury to the



- 1 officer or a third person; and  
 2 (2) has given a warning, if feasible, to the person against whom  
 3 the deadly force is to be used.
- 4 ~~(c)~~ (d) A law enforcement officer making an arrest under an invalid  
 5 warrant is justified in using force as if the warrant was valid, unless the  
 6 officer knows that the warrant is invalid.
- 7 ~~(d)~~ (e) A law enforcement officer who has an arrested person in  
 8 custody is justified in using the same force to prevent the escape of the  
 9 arrested person from custody that the officer would be justified in using  
 10 if the officer was arresting that person. However, an officer is justified  
 11 in using deadly force only if the officer:
- 12 (1) has probable cause to believe that deadly force is necessary to  
 13 prevent the escape from custody of a person who the officer has  
 14 probable cause to believe poses a threat of serious bodily injury  
 15 to the officer or a third person; and  
 16 (2) has given a warning, if feasible, to the person against whom  
 17 the deadly force is to be used.
- 18 ~~(e)~~ (f) A guard or other official in a penal facility or a law  
 19 enforcement officer is justified in using reasonable force, including  
 20 deadly force, if the officer has probable cause to believe that the force  
 21 is necessary to prevent the escape of a person who is detained in the  
 22 penal facility.
- 23 ~~(f)~~ (g) Notwithstanding subsection ~~(b)~~; ~~(d)~~; ~~or~~ ~~(c)~~, (e), or (f), a  
 24 law enforcement officer who is a defendant in a criminal prosecution  
 25 has the same right as a person who is not a law enforcement officer to  
 26 assert self-defense under IC 35-41-3-2.

