

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 928  
Judiciary II Committee Substitute Adopted 5/12/09

Short Title: The Castle Doctrine.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY WHEN A PERSON MAY USE DEFENSIVE FORCE TO PROTECT  
3 AGAINST THE UNLAWFUL AND FORCIBLE ENTRY INTO THE PERSON'S  
4 DWELLING BY ANOTHER, TO PREVENT THE REMOVAL OF A PERSON  
5 AGAINST HIS OR HER WILL FROM THE PERSON'S DWELLING, AND TO  
6 PROVIDE THAT A PERSON IS JUSTIFIED IN USING DEFENSIVE FORCE IN  
7 THESE CIRCUMSTANCES AND SO IS IMMUNE FROM CRIMINAL PROSECUTION  
8 AND CIVIL ACTION FOR THE USE OF SUCH FORCE.

9 The General Assembly of North Carolina enacts:

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

12 "**§ 14-51.2. Home protection; presumption of fear of death or great bodily harm;**  
13 **immunity from criminal prosecution and civil action for justifiable use of force.**

14 (a) The following definitions apply in this section:

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

17 (2) Dwelling. – A building or conveyance of any kind, including any attached  
18 porch, whether the building or conveyance is temporary or permanent,  
19 mobile or immobile, which has a roof over it, including a tent, and is  
20 designed to be occupied by people lodging therein at night.

21 (3) Law enforcement officer. – Any person employed or appointed as a  
22 full-time, part-time, or auxiliary law enforcement officer, correctional  
23 officer, probation officer, post-release supervision officer, or parole officer.

24 (4) Residence. – A dwelling in which a person resides either temporarily or  
25 permanently or is visiting as an invited guest.

26 (b) A person is presumed to have held a reasonable fear of imminent peril of death or  
27 great bodily harm to himself or herself or another when using defensive force that is intended  
28 or likely to cause death or great bodily harm to another if:

29 (1) The person against whom the defensive force was used was in the process of  
30 unlawfully and forcefully entering, or had unlawfully and forcibly entered, a  
31 dwelling or residence, or if that person had removed or was attempting to  
32 remove another against that person's will from the dwelling or residence; and

33 (2) The person who uses defensive force knew or had reason to believe that an  
34 unlawful and forcible entry or unlawful and forcible act was occurring or  
35 had occurred.

36 (c) The presumption set forth in subsection (b) of this section does not apply if:



1           (1)    The person against whom the defensive force is used has the right to be in or  
2           is a lawful resident of the dwelling or residence, such as an owner or lessee,  
3           and there is not an injunction for protection from domestic violence or a  
4           written pretrial supervision order of no contact against that person.

5           (2)    The person sought to be removed from the dwelling or residence is a child or  
6           grandchild, or is otherwise in the lawful custody or under the lawful  
7           guardianship of, the person against whom the defensive force is used.

8           (3)    The person who uses defensive force is engaged in, attempting to escape  
9           from, or using the dwelling or residence to further any criminal offense  
10          which involves the use or threat of physical force or violence against any  
11          individual.

12          (4)    The person against whom the defensive force is used is a law enforcement  
13          officer who enters or attempts to enter a dwelling or residence in the lawful  
14          performance of his or her official duties, and the officer identified himself or  
15          herself in accordance with any applicable law or the person using force knew  
16          or reasonably should have known that the person entering or attempting to  
17          enter was a law enforcement officer.

18          (d)    A person who unlawfully and by force enters or attempts to enter a person's  
19          dwelling or residence is presumed to be doing so with the intent to commit an unlawful act  
20          involving force or violence.

21          (e)    A person who uses force as permitted by this section is justified in using such force  
22          and is immune from criminal prosecution and civil action for the use of such force, unless the  
23          person against whom force was used is a law enforcement officer, who was acting in the  
24          performance of his or her official duties, and the officer identified himself or herself in  
25          accordance with any applicable law or the person using force knew or reasonably should have  
26          known that the person was a law enforcement officer."

27                **SECTION 2.** G.S. 14-51.1 is repealed.

28                **SECTION 3.** This act becomes effective December 1, 2009, and applies to  
29 offenses committed on or after that date. Prosecutions for offenses committed before the  
30 effective date of this act are not abated or affected by this act, and the statutes that would be  
31 applicable but for this act remain applicable to those prosecutions.