

C-010
SHOOTERS

LEGISLATIVE COUNCIL

Home Invasion (Occupants Protection) Bill 1996

First Print

Amendments to be moved in Committee

- No 1 Page 2, clause 3, line 10. Omit all words on that line.
- No 2 Page 2, clause 3, line 13. Omit all words on that line.
- No 3 Page 2, clause 3, lines 15-17. Omit all words on those lines. Insert instead:
- (a) any building or other structure occupied as a dwelling, and
- No 4 Pages 2 and 3, clause 3, line 24 on page 2 to line 3 on page 3. Omit all words on those lines.
- No 5 Page 3, clause 4, lines 8 and 9. Omit "has a reasonable belief in the circumstances as the occupant perceives them". Insert instead "believes".
- No 6 Page 3, clause 4, line 11. Omit "or intends to commit,".
- No 7 Page 3, clause 5. Omit the clause.
- No 8 Page 4, clause 7. Omit the clause. Insert instead:
- 7 Use of force**
Any occupant of a dwelling-house is justified in using any degree of physical force against an intruder if:
- (a) the occupant believes that the intruder is using physical force against any person in the dwelling-house, or
- (b) the occupant believes on reasonable grounds that the intruder might use physical force against any person in the dwelling-house, subject to sections 8, 9 and 10.
- No 9 Page 4, clause 8, line 15. Omit ", including deadly physical force,".
- No 10 Page 4, clause 8, lines 18 and 19. Omit "in the circumstances as the occupant perceives them".
- No 11 Page 4, clause 8, line 24. Omit "given, or". Insert instead "given".

No 12 Page 4, clause 8, lines 25-27. Omit all words on those lines.

No 13 Page 4, clause 9, lines 28-35. Omit the clause. Insert instead:

9 Warning not necessary

If at any time during the intruder's presence in the dwelling-house the intruder threatens or employs physical force against anyone on or in the premises, the occupant need not give any warning to the intruder before using physical force against the intruder.

No 14 Page 5, clause 10. Omit the clause. Insert instead:

10 Limitation on use of physical force

The use of physical force by an occupant of a dwelling-house against an intruder is not justified if the intruder has ceased to threaten the use of physical force, or to cause damage, or is fleeing or retreating from the dwelling-house.

No 15 Page 5, clause 11. Omit the clause.

No 16 Page 6, clause 12. Omit the clause. Insert instead:

12 Immunity from criminal liability

- (1) Any occupant of a dwelling-house who uses physical force that is justified under this Act is immune from all criminal liability of any kind resulting from the use of that force.
- (2) If an occupant accused of any crime as a result of a confrontation with an intruder raises a defence under this Act, the prosecution bears the burden of disproving the defence so raised beyond a reasonable doubt.
- (3) The trial of an occupant accused of a crime as a result of a confrontation with an intruder must be commenced to be heard within a period of 9 months after the occupant is charged with any offence arising from the confrontation. However, the 9-month period is to be extended by the length of any delay that is attributable to the occupant.

No 17 Page 6, clause 13, lines 21 and 22. Omit “, or deadly physical force,”.

No 18 Page 6, clause 13, lines 23 and 24. Omit “, or deadly physical force,”.

No 19 Page 6, clause 13, lines 27-33. Omit all words on those lines.
Insert instead:

- (2) In any civil proceedings brought against an occupant as a result of a confrontation with an intruder, the plaintiff must prove on the balance of probabilities that the occupant's conduct is not justified under this Act.

No 20 Page 7, clause 14. Omit the clause.

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Revised

C-032
Opp

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Amendment to be moved in Committee

Page 6. Insert after line 33:

14 Time for commencement of civil proceedings

Civil proceedings against an owner or occupant of a dwelling-house, or anyone lawfully within a dwelling-house, as a result of a confrontation with an intruder ~~to which this Act applies~~ must be commenced not later than 9 months after the date of the confrontation.

