

IN THE SENATE

SENATE BILL NO. 1161

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO USE OF FORCE; AMENDING SECTION 18-4009, IDAHO CODE, TO PROVIDE
2 THAT CERTAIN PERSONS WHO ENTER OR ATTEMPT TO ENTER THE HABITATION OF AN-
3 OTHER ARE PRESUMED TO BE DOING SO WITH THE INTENT TO COMMIT A FELONY AND
4 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-202A, IDAHO CODE,
5 TO REVISE A PROVISION REGARDING USE OF FORCE AND TO PROVIDE THAT CERTAIN
6 PERSONS SHALL NOT HAVE A DUTY TO RETREAT; AND REPEALING SECTION 19-203,
7 IDAHO CODE, RELATING TO RESISTANCE BY OTHER PARTIES.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 18-4009, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 18-4009. JUSTIFIABLE HOMICIDE BY ANY PERSON. Homicide is also justi-
13 fiable when committed by any person in ~~either~~ any of the following cases:

14 1. When resisting any attempt to murder any person, or to commit a
15 felony, or to do some great bodily injury upon any person; or,

16 2. When committed in defense of habitation, property or person, against
17 one who manifestly intends or endeavors, by violence or surprise, to commit
18 a felony, or against one who manifestly intends and endeavors, in a violent,
19 riotous or tumultuous manner, to enter the habitation of another for the pur-
20 pose of offering violence to any person therein; or,

21 3. When committed in the lawful defense of such person, or of a wife
22 or husband, parent, child, master, mistress or servant of such person, when
23 there is reasonable ground to apprehend a design to commit a felony or to do
24 some great bodily injury, and imminent danger of such design being accom-
25 plished; but such person, or the person in whose behalf the defense was made,
26 if he was the assailant or engaged in mortal combat, must really and in good
27 faith have endeavored to decline any further struggle before the homicide
28 was committed; or,

29 4. When necessarily committed in attempting, by lawful ways and means,
30 to apprehend any person for any felony committed, or in lawfully suppressing
31 any riot, or in lawfully keeping and preserving the peace.

32 For purposes of subsection 2. of this section, a person who unlawfully
33 and by force enters or attempts to enter the habitation of another is pre-
34 sumed to be doing so with the intent to commit a felony.

35 SECTION 2. That Section 19-202A, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 19-202A. LEGAL JEOPARDY IN CASES OF SELF-DEFENSE AND DEFENSE OF OTHERS
38 THREATENED PARTIES -- NO DUTY TO RETREAT. No person in this state shall
39 be placed in legal jeopardy of any kind whatsoever for protecting ~~himself~~
40 oneself or his family another person, in any location, by use of any reason-

1 ~~able means and force necessary, or when coming to the aid of another whom he~~
2 ~~reasonably believes to be in imminent danger of or the victim of aggravated~~
3 ~~assault, robbery, rape, murder or other heinous crime. In the exercise of~~
4 ~~the right of self-defense or defense of another, a person does not need to~~
5 ~~retreat even if the person exercising the right of self-defense or defense~~
6 ~~of another might have more easily gained safety for themselves or another~~
7 ~~by withdrawing themselves or the other person from the scene. A person may~~
8 ~~stand one's ground and defend oneself or another person by the use of any~~
9 ~~force and means that would appear to be necessary to a reasonable person in~~
10 ~~a similar situation and with similar knowledge without the benefit of hind-~~
11 ~~sight.~~

12 SECTION 3. That Section [19-203](#), Idaho Code, be, and the same is hereby
13 repealed.