

IN THE SENATE

SENATE BILL NO. 1313

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SELF-DEFENSE; AMENDING SECTION 18-4009, IDAHO CODE, TO REVISE  
2 PROVISIONS REGARDING JUSTIFIABLE HOMICIDE, TO PROVIDE A CERTAIN PRE-  
3 SUMPTION, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING  
4 SECTION 18-4010, IDAHO CODE, RELATING TO FEAR NOT SUFFICIENT JUSTIFI-  
5 CATION; AMENDING CHAPTER 2, TITLE 19, IDAHO CODE, BY THE ADDITION OF A  
6 NEW SECTION 19-201A, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; AMEND-  
7 ING SECTION 19-202, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR  
8 WHAT DEGREE AND EXTENT OF FORCE MAY BE USED AND TO MAKE TECHNICAL COR-  
9 RECTIONS; AND AMENDING SECTION 19-202A, IDAHO CODE, TO PROVIDE FOR THE  
10 DEFENSE OF SELF, OTHERS AND CERTAIN PLACES, TO PROVIDE CERTAIN PRESUMP-  
11 TIONS AND TO PROVIDE THAT A CERTAIN BURDEN SHALL BE ON THE PROSECUTION IN  
12 CERTAIN INSTANCES.  
13

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

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

17 18-4009. JUSTIFIABLE HOMICIDE BY ANY PERSON. (1) Homicide is ~~also~~ jus-  
18 tifiable when committed by any person in ~~either~~ any of the following cases:  
19 ~~1-(a)~~ When resisting any attempt to murder any person, or to commit a  
20 felony, or to do some great bodily injury upon any person; ~~or,~~  
21 ~~2-(b)~~ When committed in defense of habitation, a place of business  
22 or employment, occupied vehicle, property or person, against one who  
23 manifestly intends or endeavors, by violence or surprise, to commit a  
24 felony, or against one who manifestly intends and endeavors, in a vio-  
25 lent, riotous or tumultuous manner, to enter the habitation, place of  
26 business or employment or occupied vehicle of another for the purpose of  
27 offering violence to any person therein; ~~or,~~  
28 ~~3-(c)~~ When committed in the lawful defense of such person, or of a wife  
29 or husband, parent, child, master, mistress or servant of such person,  
30 when there is reasonable ground to apprehend a design to commit a felony  
31 or to do some great bodily injury, and imminent danger of such design be-  
32 ing accomplished; but such person, or the person in whose behalf the de-  
33 fense was made, if he was the assailant or engaged in mortal combat, must  
34 really and in good faith have endeavored to decline any further struggle  
35 before the homicide was committed; ~~or,~~  
36 ~~4-(d)~~ When necessarily committed in attempting, by lawful ways and  
37 means, to apprehend any person for any felony committed, or in lawfully  
38 suppressing any riot, or in lawfully keeping and preserving the peace.  
39 (2) For purposes of subsection (1) (b) of this section, a person who un-  
40 lawfully and by force or by stealth enters or attempts to enter a habitation,  
41 place of business or employment or occupied vehicle is presumed to be doing  
42 so with the intent to commit a felony.

1       (3) For purposes of this section:

2       (a) "Habitation" means any building, inhabitable structure or con-  
 3 veyance of any kind, whether the building, inhabitable structure or  
 4 conveyance is temporary or permanent, mobile or immobile, including a  
 5 tent, and is designed to be occupied by people lodging therein at night,  
 6 and includes a dwelling in which a person resides either temporarily or  
 7 permanently or is visiting as an invited guest, and includes the cur-  
 8 tilage of any such dwelling.

9       (b) "Place of business or employment" means a commercial enterprise or  
 10 establishment owned by a person as all or part of the person's liveli-  
 11 hood or is under the owner's control or under control of an employee or  
 12 agent of the owner with responsibility for protecting persons and prop-  
 13 erty and shall include the interior and exterior premises of the place  
 14 of business or employment.

15       (c) "Vehicle" means any motorized vehicle that is self-propelled and  
 16 designed for use on public highways to transport people or property.

17       SECTION 2. That Section [18-4010](#), Idaho Code, be, and the same is hereby  
 18 repealed.

19       SECTION 3. That Chapter 2, Title 19, Idaho Code, be, and the same is  
 20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 21 ignated as Section 19-201A, Idaho Code, and to read as follows:

22       19-201A. LEGISLATIVE INTENT -- CASTLE DOCTRINE AND STAND YOUR  
 23 GROUND. It is the intent of the legislature to incorporate provisions of the  
 24 castle doctrine and stand your ground provided in Idaho case law and jury  
 25 instructions into certain sections of this chapter and in section 18-4009,  
 26 Idaho Code.

27       SECTION 4. That Section 19-202, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29       19-202. RESISTANCE BY THREATENED PARTY. (1) Resistance sufficient to  
 30 prevent the offense may be made by the ~~party~~ person about to be injured:

31       ~~1-(a) To prevent an offense against his person, or his family, or some~~  
 32 ~~member thereof;~~ or

33       ~~2-(b) To prevent an illegal attempt by force to take or injure property~~  
 34 ~~in his lawful possession.~~

35       (2) A person acting pursuant to this section may use such degree and  
 36 extent of force as would appear to be reasonably necessary to prevent the  
 37 threatened injury. Reasonableness is to be judged from the viewpoint of a  
 38 reasonable person placed in the same position and seeing and knowing what the  
 39 person then saw and knew without the benefit of hindsight.

40       SECTION 5. That Section 19-202A, Idaho Code, be, and the same is hereby  
 41 amended to read as follows:

42       19-202A. ~~LEGAL JEOPARDY IN CASES OF SELF-DEFENSE AND DEFENSE OF OTHER~~  
 43 ~~THREATENED PARTIES~~ DEFENSE OF SELF, OTHERS AND CERTAIN PLACES. (1) No per-  
 44 son in this state shall be placed in legal jeopardy of any kind whatsoever for

1 protecting himself or his family by reasonable means necessary, or when com-  
2 ing to the aid of another whom he reasonably believes to be in imminent dan-  
3 ger of or the victim of aggravated assault, robbery, rape, murder or other  
4 heinous crime.

5 (2) The defense of self or of another does not require a person to wait  
6 until he or she ascertains whether the danger is apparent or real. A person  
7 confronted with such danger has a clear right to act upon appearances such as  
8 would influence the action of a reasonable person.

9 (3) In the exercise of the right of self-defense or defense of another,  
10 a person need not retreat from any place that person has a right to be. A per-  
11 son may stand his ground and defend himself or another person by the use of  
12 all force and means which would appear to be necessary to a reasonable per-  
13 son in a similar situation and with similar knowledge without the benefit of  
14 hindsight. The provisions of this subsection shall not apply to a person in-  
15 carcerated in jail or prison facilities when interacting with jail or prison  
16 staff who are acting in their official capacities.

17 (4) In any prosecution for the unlawful use of force, including deadly  
18 force, or the attempted or threatened use of force contrary to title 18,  
19 Idaho Code, the burden is on the prosecution to prove beyond a reasonable  
20 doubt that the use of force, attempted use of force or threat to use force was  
21 not justifiable.

22 (5) A person using force or deadly force in defense of a habitation,  
23 place of business or employment or occupied vehicle as defined in section  
24 18-4009(3), Idaho Code, is presumed to have acted reasonably and had a rea-  
25 sonable fear of imminent peril of death or serious bodily injury if the force  
26 is used against a person whose entry or attempted entry therein is unlaw-  
27 ful and is made or attempted by use of force, or in a violent and tumultuous  
28 manner, or surreptitiously or by stealth, or for the purpose of committing a  
29 felony.