LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session - 2018

IN THE SENATE

SENATE BILL NO. 1313

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO SELF-DEFENSE; AMENDING SECTION 18-4009, IDAHO CODE, TO REVISE PROVISIONS REGARDING JUSTIFIABLE HOMICIDE, TO PROVIDE A CERTAIN PRE- SUMPTION, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 18-4010, IDAHO CODE, RELATING TO FEAR NOT SUFFICIENT JUSTIFI- CATION; AMENDING CHAPTER 2, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-201A, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; AMEND- ING SECTION 19-202, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR WHAT DEGREE AND EXTENT OF FORCE MAY BE USED AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 19-202A, IDAHO CODE, TO PROVIDE FOR THE DEFENSE OF SELF, OTHERS AND CERTAIN PLACES, TO PROVIDE CERTAIN PRESUMP- TIONS AND TO PROVIDE THAT A CERTAIN BURDEN SHALL BE ON THE PROSECUTION IN CERTAIN Instances.

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

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

18-4009. JUSTIFIABLE HOMICIDE BY ANY PERSON. (1) Homicide is also justifi- able when committed by any person in either any of the following cases:
  1(a) When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
  2(b) When committed in defense of habitation, a place of business or employment, occupied vehicle, property or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a vio- lent, riotous or tumultuous manner, to enter the habitation, place of business or employment or occupied vehicle of another for the purpose of offering violence to any person therein; or,
  3(c) When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the def- ense was made, if he was the assailant or engaged in mortal combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,
  4(d) When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace. (2) For purposes of subsection (1)(b) of this section, a person who un- lawfully and by force or by stealth enters or attempts to enter a habitation, place of business or employment or occupied vehicle is presumed to be doing so with the intent to commit a felony.
(3) For purposes of this section:
(a) "Habitation" means any building, inhabitable structure or conveyance of any kind, whether the building, inhabitable structure or conveyance is temporary or permanent, mobile or immobile, including a tent, and is designed to be occupied by people lodging therein at night, and includes a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest, and includes the curtilage of any such dwelling.
(b) "Place of business or employment" means a commercial enterprise or establishment owned by a person as all or part of the person's livelihood or is under the owner's control or under control of an employee or agent of the owner with responsibility for protecting persons and property and shall include the interior and exterior premises of the place of business or employment.
(c) "Vehicle" means any motorized vehicle that is self-propelled and designed for use on public highways to transport people or property.

SECTION 2. That Section 18-4010, Idaho Code, be, and the same is hereby repealed.

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

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

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

19-202. RESISTANCE BY THREATENED PARTY. (1) Resistance sufficient to prevent the offense may be made by the party person about to be injured:
1(a) To prevent an offense against his person, or his family, or some member thereof; or
2(b) To prevent an illegal attempt by force to take or injure property in his lawful possession.
(2) A person acting pursuant to this section may use such degree and extent of force as would appear to be reasonably necessary to prevent the threatened injury. Reasonableness is to be judged from the viewpoint of a reasonable person placed in the same position and seeing and knowing what the person then saw and knew without the benefit of hindsight.

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

19-202A. LEGAL JeOPARDY IN CASES OF SELF-DEFENSE AND DEFENSE OF OTHER THREATENED PARTIES, DEFENSE OF SELF, OTHERS AND CERTAIN PLACES. (1) No person in this state shall be placed in legal jeopardy of any kind whatsoever for
protecting himself or his family by reasonable means necessary, or when coming to the aid of another whom he reasonably believes to be in imminent danger of or the victim of aggravated assault, robbery, rape, murder or other heinous crime.

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

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

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

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