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133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Koehler

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SUMMARY

- Expands the circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's residence, so that a person has no duty to retreat before using force for such a purpose if the person is in a place in which the person lawfully has a right to be.

DETAILED ANALYSIS

Duty to retreat

For purposes of determining the potential liability of a person in a "tort action" (see "**Definitions**," below) and for purposes of any criminal offense, the bill specifies that a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's "residence" (see "**Definitions**," below) if the person is in a place in which the person lawfully has a right to be. This expands the circumstances in which a person currently has no duty to retreat before using force for such a purpose, which applies under current law only to a person lawfully in the person's residence, the person's vehicle, or the vehicle of an immediate family member. Under the bill, a trier of fact is not to consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense, defense of another, or defense of that person's residence reasonably believed that the force was necessary to prevent injury, loss, or risk to life or safety.¹

Burden of proof

Current law specifies that if, at the trial of a person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support that the accused used the force in self-defense, defense of another, or defense of that

¹ R.C. 2307.601(B) and (C) and 2901.09(B) and (C).

person's residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence. The bill clarifies that that burden of proof referred to is the burden of proof "presented" in R.C. 2901.05(B)(1).²

Definitions

As used in the bill:

"Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons, and includes, but is not limited to, a product liability claim, asbestos claim, action for wrongful death, and action based on derivative claims for relief.³

"Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest; as used in this definition, a "dwelling" is a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile, and a "building or conveyance" includes, but is not limited to, an attached porch, and a building or conveyance with a roof over it includes, but is not limited to, a tent.⁴

HISTORY

Action	Date
Introduced	11-24-20

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² R.C. 2901.05(A) and (B)(1).

³ R.C. 2307.601(A), by reference to R.C. 2307.60, not in the bill.

⁴ R.C. 2307.601(A) and 2901.09(A), by reference to R.C. 2901.05.