



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5142 (Substitute S-3 as amended on Third Reading)
Sponsor: Representative Tom Casperson
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to specify that, in cases in which Section 2 of the Self-Defense Act (proposed by House Bill 5143) did not apply, the common law of this State would apply, except that the duty to retreat before using deadly force would not be required if an individual were in his or her own dwelling or within the curtilage (the adjoining land or yard) of that dwelling. Under the bill, "dwelling" would mean a structure or shelter that was used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(Section 2 of the proposed Self-Defense Act would allow an individual who was not committing a crime to use deadly force anywhere he or she had a right to be, with no duty to retreat, if he or she honestly and reasonably believed that the use of deadly force was necessary to prevent imminent death, great bodily harm, or sexual assault. It also would allow a person to use force other than deadly force anywhere he or she had a right to be, with no duty to retreat, if he or she honestly and reasonably believed that the use of force was necessary to defend against the imminent unlawful use of force by another individual.)

The bill would take effect on October 1, 2006, and is tie-barred to Senate Bills 1046 and 1185 and House Bills 5143, 5153, and 5548.

MCL 768.21c

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many individuals have been convicted of crimes for using defensive force. Florida, Indiana, Georgia, Alabama, Arizona, and other states have enacted similar legislation, but too recently to determine if there was any fiscal impact. To the extent that the bills would provide criminal immunity not already defined in law for individuals who use defensive force, these individuals would avoid conviction. State and local governments would incur reduced incarceration costs.

Date Completed: 6-6-06

Fiscal Analyst: Lindsay Hollander