

As Introduced

133rd General Assembly

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S. B. No. 383

Senator Johnson

**Cosponsors: Senators Obhof, Roegner, Brenner, Schaffer, Hoagland, Rulli,
McColley, Gavarone, Huffman, M.**

A BILL

To amend sections 2307.601, 2901.05, and 2901.09 of 1
the Revised Code to enact the Ohio Duty to 2
Retreat Act providing an expansion of the 3
locations at which a person has no duty to 4
retreat before using force under both civil and 5
criminal law. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2307.601, 2901.05, and 2901.09 of 7
the Revised Code be amended to read as follows: 8

Sec. 2307.601. (A) As used in this section: 9

(1) "Residence" and "~~vehicle~~" have ~~has~~ the same ~~meanings~~
meaning as in section 2901.05 of the Revised Code. 10 11

(2) "Tort action" has the same meaning as in section 12
2307.60 of the Revised Code. 13

(B) For purposes of determining the potential liability of 14
a person in a tort action related to the person's use of force 15
alleged to be in self-defense, defense of another, or defense of 16

the person's residence, ~~if the person lawfully is in that~~ 17
~~person's residence,~~ the person has no duty to retreat before 18
using force in self-defense, defense of another, or defense of 19
that person's residence, ~~and, if the person lawfully is an~~ 20
~~occupant of that person's vehicle or lawfully is an occupant in~~ 21
~~a vehicle owned by an immediate family member of the person, the~~ 22
~~person has no duty to retreat before using force in self defense~~ 23
~~or defense of another if that person is in a place in which the~~ 24
person lawfully has a right to be. 25

(C) A trier of fact shall not consider the possibility of 26
retreat as a factor in determining whether or not a person who 27
used force in self-defense, defense of another, or defense of 28
that person's residence reasonably believed that the force was 29
necessary to prevent injury, loss, or risk to life or safety. 30

Sec. 2901.05. (A) Every person accused of an offense is 31
presumed innocent until proven guilty beyond a reasonable doubt, 32
and the burden of proof for all elements of the offense is upon 33
the prosecution. The burden of going forward with the evidence 34
of an affirmative defense, and the burden of proof, by a 35
preponderance of the evidence, for an affirmative defense other 36
than self-defense, defense of another, or defense of the 37
accused's residence presented as described in division (B)(1) of 38
this section, is upon the accused. 39

(B)(1) A person is allowed to act in self-defense, defense 40
of another, or defense of that person's residence. If, at the 41
trial of a person who is accused of an offense that involved the 42
person's use of force against another, there is evidence 43
presented that tends to support that the accused person used the 44
force in self-defense, defense of another, or defense of that 45
person's residence, the prosecution must prove beyond a 46

reasonable doubt that the accused person did not use the force 47
in self-defense, defense of another, or defense of that person's 48
residence, as the case may be. 49

(2) Subject to division (B)(3) of this section, a person 50
is presumed to have acted in self-defense or defense of another 51
when using defensive force that is intended or likely to cause 52
death or great bodily harm to another if the person against whom 53
the defensive force is used is in the process of unlawfully and 54
without privilege to do so entering, or has unlawfully and 55
without privilege to do so entered, the residence or vehicle 56
occupied by the person using the defensive force. 57

(3) The presumption set forth in division (B)(2) of this 58
section does not apply if either of the following is true: 59

(a) The person against whom the defensive force is used 60
has a right to be in, or is a lawful resident of, the residence 61
or vehicle. 62

(b) The person who uses the defensive force uses it while 63
in a residence or vehicle and the person is unlawfully, and 64
without privilege to be, in that residence or vehicle. 65

(4) The presumption set forth in division (B)(2) of this 66
section is a rebuttable presumption and may be rebutted by a 67
preponderance of the evidence, provided that the prosecution's 68
burden of proof remains proof beyond a reasonable doubt as 69
described in divisions (A) and (B)(1) of this section. 70

(C) As part of its charge to the jury in a criminal case, 71
the court shall read the definitions of "reasonable doubt" and 72
"proof beyond a reasonable doubt," contained in division ~~(D)~~(E) 73
of this section. 74

(D) As used in this section: 75

(1) An "affirmative defense" is either of the following:	76
(a) A defense expressly designated as affirmative;	77
(b) A defense involving an excuse or justification	78
peculiarly within the knowledge of the accused, on which the	79
accused can fairly be required to adduce supporting evidence.	80
(2) "Dwelling" means a building or conveyance of any kind	81
that has a roof over it and that is designed to be occupied by	82
people lodging in the building or conveyance at night,	83
regardless of whether the building or conveyance is temporary or	84
permanent or is mobile or immobile. As used in this division, a	85
building or conveyance includes, but is not limited to, an	86
attached porch, and a building or conveyance with a roof over it	87
includes, but is not limited to, a tent.	88
(3) "Residence" means a dwelling in which a person resides	89
either temporarily or permanently or is visiting as a guest.	90
(4) "Vehicle" means a conveyance of any kind, whether or	91
not motorized, that is designed to transport people or property.	92
(E) "Reasonable doubt" is present when the jurors, after	93
they have carefully considered and compared all the evidence,	94
cannot say they are firmly convinced of the truth of the charge.	95
It is a doubt based on reason and common sense. Reasonable doubt	96
is not mere possible doubt, because everything relating to human	97
affairs or depending on moral evidence is open to some possible	98
or imaginary doubt. "Proof beyond a reasonable doubt" is proof	99
of such character that an ordinary person would be willing to	100
rely and act upon it in the most important of the person's own	101
affairs.	102
Sec. 2901.09. (A) As used in this section, "residence" and	103
"vehicle" <u>has</u> the same meanings <u>meaning</u> as in section	104

2901.05 of the Revised Code. 105

(B) For purposes of any section of the Revised Code that 106
sets forth a criminal offense, a person ~~who lawfully is in that~~ 107
~~person's residence~~ has no duty to retreat before using force in 108
self-defense, defense of another, or defense of that person's 109
residence, ~~and a person who lawfully is an occupant of that~~ 110
~~person's vehicle or who lawfully is an occupant in a vehicle~~ 111
~~owned by an immediate family member of the person has no duty to~~ 112
~~retreat before using force in self defense or defense of another~~ 113
if that person is in a place in which the person lawfully has a 114
right to be. 115

(C) A trier of fact shall not consider the possibility of 116
retreat as a factor in determining whether or not a person who 117
used force in self-defense, defense of another, or defense of 118
that person's residence reasonably believed that the force was 119
necessary to prevent injury, loss, or risk to life or safety. 120

Section 2. That existing sections 2307.601, 2901.05, and 121
2901.09 of the Revised Code are hereby repealed. 122

Section 3. This act shall be known as the Ohio Duty to 123
Retreat Act. 124