

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 34  
PROPOSED COMMITTEE SUBSTITUTE S34-PCS75033-RK-11

Short Title: The Castle Doctrine.

(Public)

Sponsors:

Referred to:

February 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE WHEN A PERSON MAY USE DEFENSIVE FORCE, INCLUDING  
3 FORCE THAT IS INTENDED OR LIKELY TO CAUSE DEATH OR SERIOUS  
4 BODILY HARM, AND TO CREATE A PRESUMPTION THAT A PERSON IS  
5 PRESUMED TO HAVE HELD A REASONABLE FEAR OF IMMINENT PERIL OF  
6 DEATH OR SERIOUS BODILY HARM IN CERTAIN CIRCUMSTANCES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Article 14 of Chapter 14 of the General Statutes is amended by  
9 adding the following new sections to read:

10 "**§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death**  
11 **or serious bodily harm.**

12 (a) The following definitions apply in this section:

13 (1) Home. – A building or conveyance of any kind, to include its curtilage,  
14 whether the building or conveyance is temporary or permanent, mobile or  
15 immobile, which has a roof over it, including a tent, and is designed as a  
16 temporary or permanent residence.

17 (2) Law enforcement officer. – Any person employed or appointed as a  
18 full-time, part-time, or auxiliary law enforcement officer, correctional  
19 officer, probation officer, post-release supervision officer, or parole officer.

20 (3) Motor vehicle. – As defined in G.S. 20-4.01(23).

21 (4) Workplace. – A building or conveyance of any kind, whether the building or  
22 conveyance is temporary or permanent, mobile or immobile, which has a  
23 roof over it, including a tent, which is being used for commercial purposes.

24 (b) The lawful occupant of a home, motor vehicle, or workplace is presumed to have  
25 held a reasonable fear of imminent death or serious bodily harm to himself or herself or another  
26 when using defensive force that is intended or likely to cause death or serious bodily harm to  
27 another if both of the following apply:

28 (1) The person against whom the defensive force was used was in the process of  
29 unlawfully and forcefully entering, or had unlawfully and forcibly entered, a  
30 home, motor vehicle, or workplace, or if that person had removed or was  
31 attempting to remove another against that person's will from the home,  
32 motor vehicle, or workplace.



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1           (2)    The person who uses defensive force knew or had reason to believe that an  
2                   unlawful and forcible entry or unlawful and forcible act was occurring or  
3                   had occurred.

4           (c)    The presumption set forth in subsection (b) of this section does not apply in any of  
5           the following circumstances:

6           (1)    The person against whom the defensive force is used has the right to be in or  
7                   is a lawful resident of the home, motor vehicle, or workplace such as an  
8                   owner or lessee, and there is not an injunction for protection from domestic  
9                   violence or a written pretrial supervision order of no contact against that  
10                  person.

11          (2)    The person sought to be removed from the home, motor vehicle, or  
12                  workplace is a child or grandchild or is otherwise in the lawful custody or  
13                  under the lawful guardianship of the person against whom the defensive  
14                  force is used.

15          (3)    The person who uses defensive force is engaged in, attempting to escape  
16                  from, or using the home, motor vehicle, or workplace to further any criminal  
17                  offense that involves the use or threat of physical force or violence against  
18                  any individual.

19          (4)    The person against whom the defensive force is used is a law enforcement  
20                  officer who enters or attempts to enter a home, motor vehicle, or workplace  
21                  in the lawful performance of his or her official duties, and the officer  
22                  identified himself or herself in accordance with any applicable law or the  
23                  person using force knew or reasonably should have known that the person  
24                  entering or attempting to enter was a law enforcement officer in the lawful  
25                  performance of his or her official duties.

26          (5)    The person against whom the defensive force is used (i) has discontinued all  
27                  efforts to unlawfully and forcefully enter the dwelling or residence and (ii)  
28                  has exited the home, motor vehicle, or workplace.

29          (d)    A person who unlawfully and by force enters or attempts to enter a person's home,  
30                  motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful  
31                  act involving force or violence.

32          (e)    A person who uses force as permitted by this section is justified in using such force  
33                  and is immune from civil or criminal liability for the use of such force, unless the person  
34                  against whom force was used is a law enforcement officer who was lawfully acting in the  
35                  performance of his or her official duties and the officer identified himself or herself in  
36                  accordance with any applicable law or the person using force knew or reasonably should have  
37                  known that the person was a law enforcement officer in the lawful performance of his or her  
38                  official duties.

39          (f)    A lawful occupant within his or her home, motor vehicle, or workplace does not  
40                  have a duty to retreat from an intruder in the circumstances described in this section.

41          (g)    This section is not intended to repeal or limit any other defense that may exist under  
42                  the common law.

43          **"§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.**

44          (a)    A person is justified in using force, except deadly force, against another when and to  
45                  the extent that the person reasonably believes that the conduct is necessary to defend himself or  
46                  herself or another against the other's imminent use of unlawful force. However, a person is  
47                  justified in the use of deadly force and does not have a duty to retreat in any place he or she has  
48                  the lawful right to be if either of the following applies:

49                  (1)    He or she reasonably believes that such force is necessary to prevent  
50                          imminent death or great bodily harm to himself or herself or another.

51                  (2)    Under the circumstances permitted pursuant to G.S. 14-51.2.

1       (b)     A person who uses force as permitted by this section is justified in using such force  
2 and is immune from civil or criminal liability for the use of such force, unless the person  
3 against whom force was used is a law enforcement officer who was lawfully acting in the  
4 performance of his or her official duties and the officer identified himself or herself in  
5 accordance with any applicable law or the person using force knew or reasonably should have  
6 known that the person was a law enforcement officer in the lawful performance of his or her  
7 official duties."

8             **SECTION 2.** G.S. 14-51.1 is repealed.

9             **SECTION 3.** This act becomes effective December 1, 2011, and applies to  
10 offenses committed on or after that date. Prosecutions for offenses committed before the  
11 effective date of this act are not abated or affected by this act, and the statutes that would be  
12 applicable but for this act remain applicable to those prosecutions.