

Senate Bill 147

By: Senators Fort of the 39th, Orrock of the 36th, Davenport of the 44th, Butler of the 55th, Harbison of the 15th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated,
2 relating to justification and excuse, so as to change provisions relating to the duty to retreat
3 prior to the use of force in self-defense; to clarify provisions relating to the use of force in
4 defense of self, others, habitation, and other property; to provide for definitions; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to
9 justification and excuse, is amended by revising Code Section 16-3-23, relating to use of
10 force in defense of habitation, as follows:

11 "16-3-23.

12 (a) As used in this Code section, the term 'habitation' means any dwelling, motor vehicle,
13 or place of business.

14 (b) A person is justified in threatening or using force against another when and to the
15 extent that he or she reasonably believes that such threat or force is necessary to prevent
16 or terminate such other's unlawful entry into or attack upon a habitation; however, such
17 person is justified in the use of force which is intended or likely to cause death or great
18 bodily harm only if:

19 (1) The entry is made or attempted in a violent and tumultuous manner and he or she
20 reasonably believes that the entry is attempted or made for the purpose of assaulting or
21 offering personal violence to any person ~~dwelling or being therein~~ residing or being
22 within a habitation and that such force is necessary to prevent the assault or offer of
23 personal violence;

24 (2) That force is used against another person who is not a member of the family or
25 household and who unlawfully and forcibly enters or has unlawfully and forcibly entered

26 the ~~residence~~ habitation and the person using such force knew or had reason to believe
 27 that an unlawful and forcible entry occurred; or

28 (3) The person using such force reasonably believes that the entry to the habitation is
 29 made or attempted for the purpose of committing a felony therein and that such force is
 30 necessary to prevent the commission of the felony."

31 **SECTION 2.**

32 Said article is further amended by revising Code Section 16-3-23.1, relating to no duty to
 33 retreat prior to the use of force in self-defense, as follows:

34 "16-3-23.1.

35 A person who uses threats or force in accordance with ~~Code Section 16-3-21, relating to~~
 36 ~~the use of force in defense of self or others,~~ Code Section 16-3-23, ~~relating to the use of~~
 37 ~~force in defense of a habitation,~~ or Code Section 16-3-24, ~~relating to the use of force in~~
 38 ~~defense of property other than a habitation,~~ has no duty to retreat and has the right to stand
 39 his or her ground and use force as provided in said Code sections, including deadly force."

40 **SECTION 3.**

41 Said article is further amended by revising Code Section 16-3-24, relating to the use of force
 42 in defense of property other than a habitation, as follows:

43 "16-3-24.

44 (a) As used in this Code section, the term:

45 (1) 'Habitation' means any dwelling, motor vehicle, or place of business.

46 (2) 'Personal property' means any property other than a motor vehicle.

47 (b) A person is justified in threatening or using force against another when and to the
 48 extent that he or she reasonably believes that such threat or force is necessary to prevent
 49 or terminate such other's trespass on or other tortious or criminal interference with real
 50 property other than a habitation or personal property:

51 (1) Lawfully in his or her possession;

52 (2) Lawfully in the possession of a member of his or her immediate family; or

53 (3) Belonging to a person whose property he or she has a legal duty to protect.

54 ~~(b)(c)~~ The use of force which is intended or likely to cause death or great bodily harm to
 55 prevent trespass on or other tortious or criminal interference with real property other than
 56 a habitation or personal property is shall not be justified unless the person using such force
 57 reasonably believes that it is necessary to prevent the commission of a forcible felony."

58

SECTION 4.

59 Said article is further amended by repealing Code Section 16-3-24.1, relating to defining
60 habitation and personal property, and designating it as reserved.

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SECTION 5.

62 All laws and parts of laws in conflict with this Act are repealed.