

# HOUSE RESEARCH

## Bill Summary

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**Version:** As Introduced

**Authors:** Cornish

**Subject:** Justifiable use of deadly force in self-defense

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### Overview

This bill strikes the entirety of § 609.065 and clarifies and expands on the current rights to use deadly force in self-defense or in defense of one's home.

#### Subdivision

- 1** **Definitions.** "Substantial bodily harm," "great bodily harm," "court order," "deadly force," "dwelling," "felony," and "vehicle" are defined.

The "dwelling" definition expands on that in § 609.581, where dwelling is "a building used as a permanent or temporary residence." As defined in this section, the dwelling includes not only the structure providing lodging but also the surrounding property, a deck, porch, or connected structure. In addition, a dwelling can be mobile or immobile, temporary or permanent, or be a tent.

- 2** **Circumstances when authorized.** Deadly force is authorized to resist or prevent an offense by an assailant that the person reasonably believes constitutes an imminent threat to oneself or another person of substantial or great bodily harm or death. The current statute authorizes deadly force only when a person fears great bodily harm or death. In addition, deadly force is permitted to resist or prevent the commission of a felony in the person's dwelling or occupied motor vehicle.

- 3** **Degree of force; retreat.** Abolishes Minnesota's common law duty to retreat from attack outside the home and brings Minnesota into line with the majority of states which do not prescribe a duty to retreat. Authorizes that an individual may stand his or her ground any place he or she has a legal right to be, and may use all force and means to succeed in

## Section

defense against attack. Force need not be proportional to the attacker's force, as long as the person's objective is defense. Allows a person to continue defensive actions against an assailant until the threat is neutralized.

- 4 Presumptions.** Creates a presumption that a person entering or attempting to enter by force or stealth into a person's dwelling or occupied motor vehicle is doing so with the intent to use life-threatening force.

Creates a second presumption that a person defending against an assailant entering by force or stealth into the person's home or occupied vehicle possesses a reasonable belief that there is an imminent threat of substantial or great bodily harm, and is therefore justified in using deadly force in defense of self or another person.

Minnesota courts have held that three factors are essential in raising defense of dwelling: 1) the defendant must be preventing or believe he or she is preventing the commission of a felony in his or her home; 2) the belief must be reasonable under the circumstances; and 3) the use of deadly force must be reasonable under the circumstances. This second presumption addresses the second and third elements.

This subdivision also allows for the use of defensive action if an individual or another person is being removed by force from a dwelling or occupied vehicle. This presumption does not apply if the person against whom force is being used is a lawful resident of the dwelling or a lawful possessor of the vehicle, or has lawful custody of the person being removed from the dwelling or vehicle. A person who is prohibited from contacting the individual or from entering a dwelling or possessing a vehicle of the individual is not considered a lawful resident or lawful possessor of the individual's dwelling or vehicle.

- 5 Criminal investigation; immunity from prosecution.** A person justified in using deadly force under this act is immune from being criminally prosecuted, and may be arrested only after law enforcement agents have considered claims or circumstances supporting self-defense.

**Effective date.** August 1, 2007, and applies to defensive actions taken on or after that date.