

HCS HB 189 & 60 -- DEFENSIVE USE OF FORCE

SPONSOR: Tilley (Jones, 117)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 7 to 1.

This substitute changes the laws regarding the defensive use of force. In its main provisions, the substitute:

- (1) Allows individuals to defend themselves from an imminent attack as long as the person using defensive force has a right to be in the area where he or she is threatened or attacked;
- (2) Allows individuals to use deadly force against those who unlawfully enter dwellings, residences, and vehicles. The substitute does not allow the use of deadly force against anyone who has a legal right to enter a dwelling, residence, or vehicle including those who are not subject to a restraining order prohibiting them from entering these places; anyone seeking to remove his or her child or grandchild or any other minor over whom he or she has legal custody from a dwelling, residence, or vehicle; or anyone who is known or should reasonably be known by the person using defensive force to be a police officer;
- (3) Creates an exemption to the general rule that deadly force may be used to defend against individuals illegally entering dwellings, residences, and vehicles if the person using defensive force is engaged in unlawful activity or is using the dwelling, residence, or vehicle for unlawful purposes; and
- (4) Allows remedies including the award of attorney fees for anyone acquitted of civil or criminal wrongdoing because he or she engaged in legitimate self defense as specified in the substitute.

FISCAL NOTE: No impact on state funds in FY 2008, FY 2009, and FY 2010.

PROPOSERS: Supporters say that the bills change the common law doctrine that requires a duty to retreat in situations where an individual is breaking into another person's home or automobile. The burden of proof for self defense is shifted to the prosecution. There are many home invasions and burglaries in the state where families need the legal right to protect themselves from criminals. There is also a need to reimburse defendants for reasonable attorney fees in situations where aggressors or their families bring frivolous lawsuits against the victims of violent crime.

Testifying for HB 189 were Representative Jones (117); Tim Oliver; Stuart Strickler; National Rifle Association; and Missouri Family Network. Testifying for HB 60 were Representative Ruestman; Tim Oliver; Stuart Strickler; National Rifle Association; Missouri Family Network; and Vicki Gwynn.

OPPONENTS: There was no opposition voiced to the committee.