

**MICHIGAN STATE POLICE  
LEGAL UPDATE  
SEPTEMBER 2006**

**MCL 600.2922b, MCL 600.2922c, & MCL 777.21c  
The Self-Defense Act**

**Effective October 1, 2006**

Public Acts 309 – 314 of 2006 comprise the “**Self-Defense Act.**” The Act affects criminal and civil liability for those who use force to defend themselves or others. Prior to this Act, the law of self-defense was gleaned primarily from the common law (judge-made law).

**General Provisions of the Act**

A person may use *deadly force* with no duty to retreat if (PA 309):

1. They are not engaged in a crime
2. They are in a place they have a legal right to be
3. They honestly and reasonably believe deadly force is necessary
4. The deadly force is used to prevent imminent death, great bodily harm, or sexual assault of the person or another

**A person may use force *other than deadly force* if (PA 309):**

1. They are not engaged in a crime
2. They are in a place they have a legal right to be
3. They honestly and reasonably believe force is necessary
4. The force is used to prevent imminent unlawful force against the person or another

## **Honest and Reasonable Belief**

**The Act (PA 311) creates a rebuttable presumption** that a person using force has an honest and reasonable belief that imminent death, great bodily harm, or sexual assault will occur if the person using force honestly and reasonably believes the person against whom force is used is any of the following:

1. In the process of breaking and entering a dwelling or business
2. In the process of committing a home invasion
3. Has committed a breaking and entering or home invasion and is still present in the dwelling or business
4. Is attempting to unlawfully remove a person from a dwelling, business, or vehicle against his or her will

**The presumption created by the Act does not apply in the following circumstances:**

1. The person against whom force was used has a legal right to be in the dwelling, business, or vehicle
2. The person being removed from a dwelling, business, or vehicle is a child in the lawful custody of the person removing the child
3. The person using force is engaged in a crime or using the business, dwelling, or vehicle to further a crime
4. The person against whom force is used is a police officer attempting to enter a dwelling, business, or vehicle in the performance of his or her duties
5. The person against whom force was used has a domestic relationship with the person using force and the person using force has a history of domestic violence as the aggressor

## **Effect on the Common Law**

In circumstances not addressed in the Act, the common law of self-defense still applies with one exception: There is no longer a duty to retreat when a person is “in his or her own dwelling or within the curtilage of that dwelling.” This exception applies even in cases where the rest of the Act doesn’t apply (PA 313).

### **Civil Liability**

A person who uses force in accordance with the Act is immune from civil liability for damages caused by the use of such force (PA 314). Additionally, courts must award attorney fees and costs to an individual who has been sued for using force and the court finds that the force was in accordance with the Act (PA 312).

### **Criminal Liability**

Under the Act (PA 310), no crime has been committed when a person uses force as authorized. If a prosecutor believes that the force is not justified, he or she must provide evidence that the force used was not in accordance with the Act. Such evidence must be presented at the time of warrant issuance, preliminary examination, and trial.

### **Effect on Law Enforcement**

The overall effect of the Act on police practice is minimal. Officers should still process suspected crime scenes as in the past. However, because of the duty imposed upon prosecutors by PA 310, officers should immediately consult with their prosecutor when investigating a case where self-defense has been claimed by the suspect or where the circumstances indicate that such a defense might be used at trial.

In the absence of guidance from a prosecutor, officers should attempt to gather circumstantial or direct evidence that might show that use of force was unjustified, i.e., the circumstances listed in PA 309 did not exist.

[Public Act 309 of 2006](#) [Public Act 310 of 2006](#)  
[Public Act 311 of 2006](#) [Public Act 312 of 2006](#)  
[Public Act 313 of 2006](#) [Public Act 314 of 2006](#)

## **LEGAL RESOURCES**