

[HB 5143/PA 309](#), sponsored by Rep. Rick Jones, creates the **Self Defense Act** and specifies that it is not a crime to use force or deadly force to defend oneself if that person is not breaking any laws when defensive force was used. The person must be facing imminent threat of death or great bodily harm.

## **Act No. 309**

**EFFECTIVE DATE:** October 1, 2006

**ENROLLED HOUSE BILL No. 5143**

**AN ACT to clarify the rights and duties of self-defense and the defense of others.**

The People of the State of Michigan enact:

**Sec. 1.** This act shall be known and may be cited as the "self-defense act".

**Sec. 2.** (1) An individual who has not or is not engaged in the commission of a crime at the time he or she uses deadly force may use deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if either of the following applies:

(a) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death of or imminent great bodily harm to himself or herself or to another individual.

(b) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent sexual assault of himself or herself or of another individual.

(2) An individual who has not or is not engaged in the commission of a crime at the time he or she uses force other than deadly force may use force other than deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if he or she honestly and reasonably believes that the use of that force is necessary to defend himself or herself or another individual from the imminent unlawful use of force by another individual.

**Sec. 3.** Except as provided in section 2, this act does not modify the common law of this state in existence on October 1, 2006 regarding the duty to retreat before using deadly force or force other than deadly force.

**Sec. 4.** This act does not diminish an individual's right to use deadly force or force other than deadly force in self-defense or defense of another individual as provided by the common law of this state in existence on October 1, 2006.

[HB 5153/PA 310](#), sponsored by Rep. Leslie Mortimer, puts the burden of proof on the prosecutor to show that a person acted unlawfully in the application of force, rather than the person using the force having to prove they acted lawfully.

## **Act No. 310**

**Public Acts of 2006**

**Approved by the Governor**

**July 18, 2006**

**EFFECTIVE DATE: October 1, 2006**

**ENROLLED HOUSE BILL No. 5153**

**AN ACT to exempt an individual who uses deadly force or force other than deadly force from criminal prosecution under certain circumstances; to establish certain procedures; and to prescribe the duties of certain public officials.**

**The People of the State of Michigan enact:**

**Sec. 1.** (1) An individual who uses deadly force or force other than deadly force in compliance with section 2 of the self-defense act and who has not or is not engaged in the commission of a crime at the time he or she uses that deadly force or force other than deadly force commits no crime in using that deadly force or force other than deadly force.

(2) If a prosecutor believes that an individual used deadly force or force other than deadly force that is unjustified under section 2 of the self-defense act, the prosecutor may charge the individual with a crime arising from that use of deadly force or force other than deadly force and shall present evidence to the judge or magistrate at the time of warrant issuance, at the time of any preliminary examination, and at the time of any trial establishing that the individual's actions were not justified under section 2 of the self-defense act.

[SB 1046/ PA 311](#), sponsored by Sen. Alan Cropsey, outlines rebuttal presumptions for justified use of self-defense. The bill makes it clear that there is **no “duty to retreat”** if a person is in a place where they have a legal right to be.

## **Act No. 311**

**Approved by the Governor**

**July 18, 2006**

**EFFECTIVE DATE: October 1, 2006**

**ENROLLED SENATE BILL No. 1046**

**AN ACT to create a rebuttable presumption regarding the use of self-defense or the defense of others.**

**The People of the State of Michigan enact:**

**Sec. 1.** (1) Except as provided in subsection (2), it is a rebuttable presumption in a civil or criminal case that an individual who uses deadly force or force other than deadly force under section 2 of the self-defense act has an honest and reasonable belief that imminent death of, sexual assault of, or great bodily harm to himself or herself or another individual will occur if both of the following apply:

(a) The individual against whom deadly force or force other than deadly force is used is in the process of breaking and entering a dwelling or business premises or committing home invasion or has broken and entered a dwelling or business premises or committed home invasion and is still present in the dwelling or business premises, or is unlawfully attempting to remove another individual from a dwelling, business premises, or occupied vehicle against his or her will.

(b) The individual using deadly force or force other than deadly force honestly and reasonably believes that the individual is engaging in conduct described in subdivision (a).

(2) The presumption set forth in subsection (1) does not apply if any of the following circumstances exist:

(a) The individual against whom deadly force or force other than deadly force is used, including an owner, lessee, or titleholder, has the legal right to be in the dwelling, business premises, or vehicle and there is not an injunction for protection from domestic violence or a written pretrial supervision order, a probation order, or a parole order of no contact against that person.

(b) The individual removed or being removed from the dwelling, business, premises, or occupied vehicle is a child or grandchild of, or is otherwise in the lawful custody of or under the lawful guardianship of, the individual against whom deadly force or force other than deadly force is used.

(c) The individual who uses deadly force or force other than deadly force is engaged in the commission of a crime or is using the dwelling, business premises, or occupied vehicle to further the commission of a crime.

(d) The individual against whom deadly force or force other than deadly force is used is a peace officer who has entered or is attempting to enter a dwelling, business premises, or vehicle in the performance of his or her official duties in accordance with applicable law.

**(e)** The individual against whom deadly force or force other than deadly force is used is the spouse or former spouse of the individual using deadly force or force other than deadly force, an individual with whom the individual using deadly force or other than deadly force has or had a dating relationship, an individual with whom the individual using deadly force or other than deadly force has had a child in common, or a resident or former resident of his or her household, and the individual using deadly force or other than deadly force has a prior history of domestic violence as the aggressor.

**(3) As used in this section:**

**(a)** "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

**(b)** "Business premises" means a building or other structure used for the transaction of business, including an appurtenant structure attached to that building or other structure.

**(c)** "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

**(d)** "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.

**(e)** "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

**(f)** "Peace officer" means any of the following:

**(i)** A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Peace officer does not include a person serving solely because he or she occupies any other office or position.

**(ii)** A law enforcement officer of a Michigan Indian tribal police force.

**(iii)** The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

**(iv)** A law enforcement officer of a multicounty metropolitan district.

**(v)** A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

**(vi)** Until December 31, 2007, a law enforcement officer of a school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

**(vii)** A fire arson investigator from a fire department within a city with a population of not less than 750,000 who is sworn and fully empowered by the city chief of police.

**(viii)** A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

**(ix)** A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

**(x)** A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of that community college, college, or university to enforce state law and the rules and ordinances of that community college, college, or university.

**(XI)** "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.

**Sponsored by Sen. Ron Jelinek, allows for the award of court and attorney fees in civil cases where it was determined a person acted in accordance with the Self Defense Act and where civil immunities apply.**

**Act No. 312**

**EFFECTIVE DATE: October 1, 2006**

**ENROLLED SENATE BILL No. 1185**

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL600.101 to 600.9947) by adding section 2922c.

**The People of the State of Michigan enact:**

**Sec. 2922c.** The court shall award the payment of actual attorney fees and costs to an individual who is sued for civil damages for allegedly using deadly force or force other than deadly force against another individual if the court determines that the individual used deadly force or force other than deadly force in compliance with section 2 of the self-defense act and that the individual is immune from civil liability under section 2922b.

[HB 5142/PA 313](#), sponsored by Rep. Tom Casperson, expands the definition of "dwelling" to include a person's garage, barn, backyard, etc.

**Act No. 313**

**EFFECTIVE DATE: October 1, 2006**

**ENROLLED HOUSE BILL No. 5142**

**AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 21c to chapter VIII.**

**The People of the State of Michigan enact:**

#### **CHAPTER VIII**

**Sec. 21c.** (1) In cases in which section 2 of the self-defense act does not apply, the common law of this state applies except that the duty to retreat before using deadly force is not required if an individual is in his or her own dwelling or within the curtilage of that dwelling.

(2) As used in this section, "**dwelling**" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

**Sponsored by Rep. Tim Moore, gives civil immunities to persons acting in accordance with the Self Defense Act, preventing criminals and their families from suing law-abiding citizens.**

**Act No. 314**

**ENROLLED HOUSE BILL No. 5548**

**AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding section 2922b.**

**The People of the State of Michigan enact:**

**Sec. 2922b.** An individual who uses deadly force or force other than deadly force in self-defense or in defense of another individual in compliance with section 2 of the self-defense act is immune from civil liability for damages caused to either of the following by the use of that deadly force or force other than deadly force:

**(a)** The individual against whom the use of deadly force or force other than deadly force is authorized.

**(b)** Any individual claiming damages arising out of injury to or the death of the individual described in subdivision (a), based upon his or her relationship to that individual.