

DEADLY FORCE IN MICHIGAN

The “CASTLE DOCTRINE” package of bills was signed into law on July 20, 2006.

The law became effective on October 1, 2006.

This law removes the duty to retreat from a violent attack. Individuals in Michigan, as in most states, have always had the right to stand their ground and defend themselves with no duty to retreat when attacked inside the four walls of their home. However, if attacked outside the four walls of their home, even if on their own property (such as the backyard, detached garage, or a pole building), individuals in Michigan were required to retreat from a violent attack if able to do so safely. As of October 1, 2006, there is no longer a “duty to retreat” from a violent attack as long as the individual is in a place where they have a legal right to be and as long as they are not engaged in illegal activity.

The “Use of Deadly Force” continuum still applies. The escalating degrees of force still apply to all situations and the “Reasonable Man” standard is still used to evaluate an individual’s actions in a given circumstance.

This means that the following three valid reasons to use deadly force still apply to all situations:

- 1) **Fear of Death.**
- 2) **Fear of Serious Bodily Injury.**
- 3) **Fear of Forcible Sexual Penetration.**

In addition to these three reasons for the use of deadly force, the following three conditions must exist in order for the use of deadly force to be justifiable:

1. **Imminent** - One of the three above listed reasons for the use of deadly force must be about to happen; it cannot be something that will happen tomorrow or in a few weeks.
2. **Intent** - The attacker has to have demonstrated some sort of intent. This can be verbal or non-verbal. The display of a weapon, verbal threats, or aggressive advances after being told to stay away are all indications of intent.
3. **Ability** – The attacker has to have the ability to carry through with their intended attack. If someone says they are going to shoot you, but have no firearm, then they do not have the ability to shoot you at that moment.

You still must act reasonably and apply the above principles of the use of deadly force.

Here is what this law does change. This law removes the duty to retreat anywhere that an individual has a legal right to be provided that they are not engaged in illegal activity. If a person acts with reasonable force, up to and including deadly force, then the prosecuting attorney must prove that the person acted unlawfully in order to take the case to trial. This is a change from current procedure where a person who acts in self-defense must prove that they acted lawfully after being charged and possibly taken to court. In addition, if a person cannot be charged and convicted criminally, the new law provides that they cannot be prosecuted civilly. If for some reason a civil case is allowed to proceed, the person who used justifiable self-defense shall be awarded court and attorney’s fees.

This all means that you must still act in a reasonable manner. Your firearm should still be your “tool of last resort” for self-defense. The emotional trauma and aftermath of shooting another human being will be absolutely devastating. It should be avoided if at all possible. This law mitigates the aftermath so that a decision made under the duress of defending oneself against a criminal does not destroy your life criminally or financially.

You are encouraged to read these laws for yourself and evaluate them. For professional legal advice, you should consult a lawyer familiar with firearms law and the use of deadly force in Michigan. The new laws are 2006 PA 309 and 2006 PA 313.

Above modified From: <http://www.southsidesportsmanclub.com/stand-your-ground.html>

SELF-DEFENSE ACT (EXCERPT)

Act 309 of 2006

780.972 Use of deadly force by individual not engaged in commission of crime; conditions.

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. 2006, Act 309, Eff. Oct. 1, 2006.