

SC PROTECTION OF PERSONS AND PROPERTY ACT

The stated intent of the legislation is to codify the common law castle doctrine, which recognizes that a person's home is his castle, and to extend the doctrine to include an occupied vehicle and the person's place of business. This bill authorizes the lawful use of deadly force under certain circumstances against an intruder or attacker in a person's dwelling, residence, or occupied vehicle. The bill provides that there is no duty to retreat if (1) the person is in a place where he has a right to be, including the person's place of business, (2) the person is not engaged in an unlawful activity, and (3) the use of deadly force is necessary to prevent death, great bodily injury, or the commission of a violent crime. A person who lawfully uses deadly force is immune from criminal prosecution and civil action, unless the person against whom deadly force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using deadly force knows or reasonably should have known the person is a law enforcement officer.

H.4301 (R412) was signed by the Governor on June 9, 2006.

Information from South Carolina Law Enforcement Division Web site at
<http://www.sled.sc.gov/ProtectionOfPeople.aspx?MenuID=CWP>

SECTION 16-11-440. Presumption of reasonable fear of imminent peril when using deadly force against another unlawfully entering residence, occupied vehicle or place of business.

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

(D) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16-1-60.

SECTION 16-11-450. Immunity from criminal prosecution and civil actions; law enforcement officer exception; costs.

(A) A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force, unless the person against whom deadly force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using deadly force knows or reasonably should have known that the person is a law enforcement officer.

SECTION 16-1-60. Violent crimes defined.

For purposes of definition under South Carolina law, a violent crime includes the offenses of:

- murder (Section 16-3-10);
- attempted murder (Section 16-3-29);
- assault and battery by mob, first degree, resulting in death (Section 16-3-210(B)),
- criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653);
- criminal sexual conduct with minors, first, second, and third degree (Section 16-3-655);
- assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656);
- assault and battery with intent to kill (Section 16-3-620);
- assault and battery of a high and aggravated nature (Section 16-3-600(B));
- kidnapping (Section 16-3-910); trafficking in persons (Section 16-3-2020);

- voluntary manslaughter (Section 16-3-50);
- armed robbery (Section 16-11-330(A));
- attempted armed robbery (Section 16-11-330(B));
- carjacking (Section 16-3-1075);
- drug trafficking as defined in Section 44-53-370(e) or trafficking cocaine base as defined in Section 44-53-375(C);
- manufacturing or trafficking methamphetamine as defined in Section 44-53-375;
- arson in the first degree (Section 16-11-110(A));
- arson in the second degree (Section 16-11-110(B));
- burglary in the first degree (Section 16-11-311);
- burglary in the second degree (Section 16-11-312(B));
- engaging a child for a sexual performance (Section 16-3-810);
- homicide by child abuse (Section 16-3-85(A)(1));
- aiding and abetting homicide by child abuse (Section 16-3-85(A)(2));
- inflicting great bodily injury upon a child (Section 16-3-95(A));
- allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B));
- domestic violence of a high and aggravated nature (Section 16-25-65);
- domestic violence in the first degree (Section 16-25-20(B));
- abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F));
- abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E));
- taking of a hostage by an inmate (Section 24-13-450);
- detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10-11-325(B)(1));
- spousal sexual battery (Section 16-3-615);
- producing, directing, or promoting sexual performance by a child (Section 16-3-820);
- sexual exploitation of a minor first degree (Section 16-15-395);
- sexual exploitation of a minor second degree (Section 16-15-405);
- promoting prostitution of a minor (Section 16-15-415);
- participating in prostitution of a minor (Section 16-15-425);
- aggravated voyeurism (Section 16-17-470(C));
- detonating a destructive device resulting in death with malice (Section 16-23-720(A)(1));
- detonating a destructive device resulting in death without malice (Section 16-23-720(A)(2));
- boating under the influence resulting in death (Section 50-21-113(A)(2));
- vessel operator's failure to render assistance resulting in death (Section 50-21-130(A)(3));
- damaging an airport facility or removing equipment resulting in death (Section 55-1-30(3));
- failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56-5-750(C)(2));
- interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56-5-1030(B)(3));
- hit and run resulting in death (Section 56-5-1210(A)(3));
- felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56-5-2945(A)(2));
- putting destructive or injurious materials on a highway resulting in death (Section 57-7-20(D));
- obstruction of a railroad resulting in death (Section 58-17-4090);
- accessory before the fact to commit any of the above offenses (Section 16-1-40);
- and attempt to commit any of the above offenses (Section 16-1-80).

Only those offenses specifically enumerated in this section are considered violent offenses.