

IMINA 'TRENTAIS AIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 12-36 (COR)

Introduced by:

Joe S. San Agustin 

**AN ACT TO AMEND §§ 7.111 AND 7.112 OF ARTICLE 5;
AND § 7.86 (b)(2)(A) OF ARTICLE 4, ALL OF CHAPTER
7, TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO
EXPANDING THE “CASTLE DOCTRINE”
JUSTIFICATION FOR ACTS OF SELF DEFENSE AND
ELIMINATING THE REQUIREMENT OF RETREATING
BEFORE THE USE OF FORCE IN THE FACE OF
IMMINENT DANGER.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM.**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the “Castle Doctrine”, which is a common law doctrine that a person is justified
4 in using force in the defense of his castle, or as one might say in modern times, in
5 using defensive force in home, workplace, or the vehicle, can be expanded to include
6 justifying defensive force when a person is in reasonable fear of imminent death,
7 serious injury and is in a place where he or she has a right to be in. Many states have
8 enacted various forms of “Stand Your Ground” laws, with a variety of ways of
9 allowing defendants or prospective defendant’s immunities, a variety of ways of
10 allowing defensive force in different situations.

11 The extension of Stand Your Ground contained in this legislation allows a
12 person to defend himself or herself using defensive force, not only when at home,
13 workplace, or in a occupied vehicle, but also when the person is in place where he

1 or she has a right to be in. This could be when walking, at the beach, or in other
2 public or private places, where the victim or potential victim may lawfully be.

3 While the current “Castle Doctrine” does not require a person to retreat before
4 using defensive force, this extension of Stand Your Ground provisions removes the
5 requirement of retreating before using defensive force when a victim or potential
6 victim is outside of the “castle”.

7 **Section 2.** § 7.111 of Article 5, Chapter 7 of Title 9, Guam Code Annotated,
8 is *amended* to read:

9 **“§ 7.111. Legislative Findings and Intent.**

10 *I Liheslaturan Guåhan* finds that it is proper for law-abiding people to protect
11 themselves, their families, and others from intruders and attackers without fear of
12 prosecution or civil action from acting in defense of themselves and others.

13 *I Liheslaturan Guåhan* further finds that the “Castle Doctrine” is common-
14 law doctrine of ancient origins that declares that a person’s home is his or her castle.

15 *I Liheslaturan Guåhan* further finds that persons residing visit Guam have a
16 right to remain safe.

17 *I Liheslaturan Guåhan* further finds that many states have also adopted the
18 “Stand Your Ground” Rule, which means that there is no requirement for a person
19 to first retreat before being able to act with force in self-defense. This is an
20 expansion of the “Castle Doctrine”, and enables a person to be able to defend him
21 or herself immediately, without fear of later prosecution or civil liability for a split-
22 decision made while in reasonable fear of danger.

23 *I Liheslaturan Guåhan* further finds that a person should not be required to
24 retreat in order to protect himself or herself against death, serious bodily harm
25 kidnapping or rape or sodomy compelled by force or threat, whether these threats
26 occur in the home, at work, while in a vehicle, or in a location where a person has a
27 right to be.

1 Therefore, it is the intent of *I Liheslaturan Guåhan* that no person or victim
2 of crime should be required to surrender his or her personal safety to criminal,
3 whether at home, at work, in a vehicle or where a person has a right to be, nor should
4 a person or victim be required to needlessly retreat in the face of intrusion or attack.”

5 **Section 3.** § 7.112 of Article 5, Chapter 7 of Title 9, Guam Code Annotated,
6 is *amended* to read:

7 “§ 7.112. **Home Self Protection, used of Deadly Force, Presumption of**
8 **Fear of Death or Harm.**

9 (a) A person is presumed to have held a reasonable fear of imminent peril
10 or death or serious bodily injury to himself or herself or another when using
11 defensive force that is intended or likely to cause death or serious bodily injury to
12 another if:

13 (1) the person against whom the defensive force was used was in the
14 process of unlawfully and forcefully entering, or had unlawfully or forcefully
15 entered, a business, residence, or occupied vehicle, or if that person had
16 removed or was attempting to remove another against that person’s will from
17 the business, residence, or occupied vehicle; and

18 (2) the person who uses defensive force knew or had reason to
19 believe that an unlawful and forcible act was occurring or had occurred; or

20 (3) the person who uses defensive force reasonably believes such
21 force is necessary to protect himself or herself against death, serious bodily
22 harm, kidnapping or rape or sodomy compelled by force or threat and is in a
23 location the he or she has the right to be in.

24 (b) The presumption set forth in Subsection (a) does not apply if:

25 (1) the person against whom the defensive force is used has the right
26 to be in or is lawful resident of the business, residence, or vehicle, such as an
27 owner, lessee, or titleholder, or there is nor an injunction for protection from

1 domestic violence or a written pretrial supervision order of no contract against
2 that person; or

3 (2) the person who uses defensive force is engaged in a criminal
4 activity or is using the business, residence, or occupied vehicle to further a
5 criminal activity; or

6 (3) the person against whom defensive force is used is a uniformed
7 law enforcement officer who enters or attempts to enter a habitable property,
8 residence, or vehicle in the performance of his or her official duties, and the
9 officer identified himself or herself in accordance with applicable law, or the
10 person using force knew or reasonable should have known that the person
11 entering or attempting to enter was a law enforcement officer.

12 (c) A person who unlawfully and by force enters or attempts to enter a
13 person's business, residence, or occupied vehicle is presumed to be doing so
14 with the intent to commit an unlawful act involving force or violence.

15 (d) As used in this Section the terms:

16 (1) habitable property has the meaning provided by 9 GCA § 34.10.
17 Habitable property, as used in this section, ~~are~~ is limited to business buildings,
18 for which the victim has beneficial control and use~~;~~ and, residences, vehicles,
19 and house boats for which the victim has legal right to occupy.

20 Habitable property, as used in this Section does not include yards or
21 outdoor spaces surrounding business buildings, residence, vehicles or house
22 boats. Nothing herein is construed to limit the right of a victim to use
23 defensive force in a manner consistent with Chapter 7 of Title 9, GCA Guam
24 Code Annotated in areas outside of his or her home, business, ~~ear~~ vehicle or
25 houseboat.

1 (2) business means habitable property that is lawfully used to
2 conduct commercial activity by duly licensed corporations, LLC's,
3 partnerships or sole proprietorships.

4 (3) residence as used in this Chapter, means habitable property in
5 which a person resides, either temporarily or permanently, or is visiting as an
6 invited guest.

7 (4) vehicle is defined in § 1102 and § 1501 of Title 16, GCA Guam
8 Code Annotated.

9 (5) defensive force has the same meaning as self-defense as used in
10 Chapter 7 of Title 9, GCA Guam Code Annotated, except that a lawful
11 occupant of habitable property, and a person who is in a place that he or she
12 has a right to be in, has no duty or obligation to retreat.”

13 **Section 4.** § 7.86 (b)(2)(A)(B), (c) of Article 4, Chapter 7, Title 9, Guam
14 Code Annotated is *amended* to read:

15 “(A) the defendant is not obliged to retreat from his dwelling, place of
16 work or vehicle, or any other location where he or she has a right to be unless
17 he or she was the initial aggressor or is assailed in his place of work by another
18 person whose place of work the defendant knows it to be; and”

19 **Section 5. Severability.** *If* any provision of this Act or its application to any
20 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
21 *not* affect other provisions or application of this Act which can be given effect without
22 the invalid provisions or application, and to this end the provisions of this Act are
23 severable.

24 **Section 6. Effective Date.** This Act *shall* become effective upon
25 enactment.