

*I Mina'trentai Siette Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
39-37 (COR)	William A. Parkinson	AN ACT TO AMEND SUBSECTION (d) OF § 7.112 AND TO ADD A NEW SUBSECTION (e) TO § 7.113, BOTH OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM'S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTILAGE OF ONE'S RESIDENCE; AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT'S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE "CASTLE DOCTRINE REFORM ACT OF 2023."	2/13/23 3:43 p.m.						

***I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN***  
**2023 (FIRST) Regular Session**

**Bill No. 39-37 (COR)**

Introduced by:

William A. Parkinson 

**AN ACT TO *AMEND* SUBSECTION (d) OF § 7.112 AND TO *ADD* A NEW SUBSECTION (e) TO § 7.113, BOTH OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM'S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTILAGE OF ONE'S RESIDENCE; AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT'S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE "CASTLE DOCTRINE REFORM ACT OF 2023."**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Short Title.** This Act may be cited as the "Castle Doctrine Reform Act of 2023."

**Section 2.** Subsection (d) of § 7.112 of Article 5, Chapter 7, Title 9, Guam Code Annotated, is hereby *amended* to read as follows:

"(d) As used in this Section, the term:

(1) [~~habitable~~] *Habitable property* has the meaning provided by § 34.10. Habitable property [~~, as used in this Section,~~] are limited to business buildings, for which the victim has beneficial control and use;

1 and residences, vehicles and house boats for which the victim has a  
2 legal right to occupy.

3 Except when used in reference to a residence, [Habitable]  
4 habitable property~~[, as used in this Section,]~~ does not include yards or  
5 surrounding outdoor spaces ~~[surrounding business buildings,~~  
6 ~~residences, vehicles or house boats]~~. Nothing herein is construed to  
7 limit the right of a victim to use defensive force in a manner consistent  
8 with Chapter 7 of Title 9, GCA in areas outside of his home, business,  
9 car or house boat.

10 (2) ~~[business]~~ Business means habitable property that is  
11 lawfully used to conduct commercial activity by duly licensed  
12 corporations, LLCs, partnerships or sole proprietorships.

13 (3) ~~[residence]~~ Residence ~~[as used in this Chapter,]~~ means a  
14 habitable property, to include the curtilage of the residence, in which a  
15 person resides, either temporarily or permanently, or is visiting as an  
16 invited guest, or any building or other appurtenance within the curtilage  
17 of the residence such as an outdoor kitchen or bathroom.

18 (4) ~~[vehicle]~~ Vehicle is defined in § 1102 and § 5101 of Title  
19 16, GCA.

20 (5) Curtilage means the area immediately surrounding a  
21 residence that is necessary, convenient and habitually used for family  
22 purposes and for those activities associated with the sanctity of a  
23 person's home.

24 (6) Defensive force has the same meaning as self defense as  
25 used in Chapter 7 of Title 9, GCA, except that a lawful occupant of  
26 habitable property has no duty or obligation to retreat.”

1           **Section 3.** Section 7.113 of Article 5, Chapter 7, Title 9, Guam Code  
2 Annotated, is hereby *amended by adding* a new Subsection (e) to read as follows:

3           “**§ 7.113. Immunity from Criminal Prosecution and Civil**  
4 **Action.**”

5           (a) As used in this Section, the term criminal prosecution  
6 includes arresting, detaining in custody, and charging or prosecuting  
7 the defendant.

8           (b) A person who uses force as permitted in § 7.112 is justified  
9 in using such force and is immune from criminal prosecution and civil  
10 action for the use of such force, except when:

11                   (1) the person against whom force was used is a law  
12 enforcement officer, as defined by public law, who was acting in  
13 the performance of his or her duties, and the officer identified  
14 himself or herself in accordance with applicable law; or

15                   (2) the person using force knew or reasonably should  
16 have known that the person was a law enforcement officer; or

17                   (3) the use of force is found to be unlawful or was found  
18 to have been exercised with any illegal activity.

19           (c) A law enforcement agency shall use standard procedures  
20 for investigating the use of force as described in Subsection (b), but the  
21 agency may not arrest the person for using force unless it determines  
22 that there is probable cause that the force that was used was unlawful.

23           (d) The court shall award reasonable attorney’s fees, court  
24 costs, compensation for loss of income, and all expenses incurred by  
25 the defendant in defense of any civil action brought by a plaintiff if the  
26 court finds that the defendant is immune from prosecution as provided  
27 in Subsection (b).

1                   (e) In a criminal prosecution, once a prima facie claim of self-  
2                   defense immunity from criminal prosecution has been raised by the  
3                   defendant at a pretrial immunity hearing, the burden of proof by clear  
4                   and convincing evidence is on the party seeking to overcome the  
5                   immunity from criminal prosecution provided in Subsection (b).”

6           **Section 4. Date of Enactment.** This Act shall become effective upon  
7 enactment.

8           **Section 5. Severability.** If any provision of this Act or its application to  
9 any person or circumstance is found to be invalid or contrary to law, such invalidity  
10 shall not affect other provisions or applications of this Act that can be given effect  
11 without the invalid provision or application, and to this end the provisions of this  
12 Act are severable.