

HB 1498

Testimony- Rep. Ben Koppelman

Madame Chairman and Members of the Committee, thank you for the opportunity to introduce HB1498 to your committee. I introduced this bill to ensure that our citizens have a reasonable opportunity to exercise their Constitutional right to protect themselves as afforded by the Second Amendment in a way that is reasonable and not reckless.

The changes in Section 1 make the chapter read more consistently by removing language that could be read to the contrary of the immunity from civil liability for justifiable use of force found in 12.1-05-07.2.

Section 2 removes the requirement to request someone to desist from a crime prior to the use of force to stop crimes such as criminal trespass and burglary. Force used in this instance would still have to be reasonable and would likely not be deadly force unless the perpetrator first threatens the individual's life or serious bodily injury.

One of the largest changes in the bill is in Section 3, which removes the 'Duty to Retreat' when an individual is not breaking the law, is not instigating a confrontation, and is in any place they are legally allowed to be. This position is consistent with 37 other states that have similar laws and judicial decisions (see attached map). We currently are one of only 13 states that have a 'duty to retreat' in these instances. This change does not remove all 'duty to retreat' but rather only removes the requirement for law-abiding citizens. **The change to this section does not allow an individual to use deadly force unless 'such force is necessary to protect the actor or anyone else against death, serious bodily injury, or the commission of a felony involving violence'**. This change also would be consistent with the finding of the U.S. Supreme Court.

In the SCOTUS case *Brown v. United States*, the high court said:

*“that if a man reasonably believes that he is in immediate danger of death or grievous bodily harm from his assailant he may stand his ground and that if he kills him, he has not exceeded the bounds of lawful self-defense.” The opinion went on to say: “Detached reflection cannot be demanded in the presence of an uplifted knife. Therefore, in this Court, at least, it is not a condition of immunity that one in that situation should pause to consider whether a reasonable man might not think it possible to fly with safety or to disable his assailant rather than to kill him.”* <sup>[2]</sup>

Additionally, the changes in the section 3 would extend the “castle doctrine” to an individual’s motor vehicle as many states have already done.

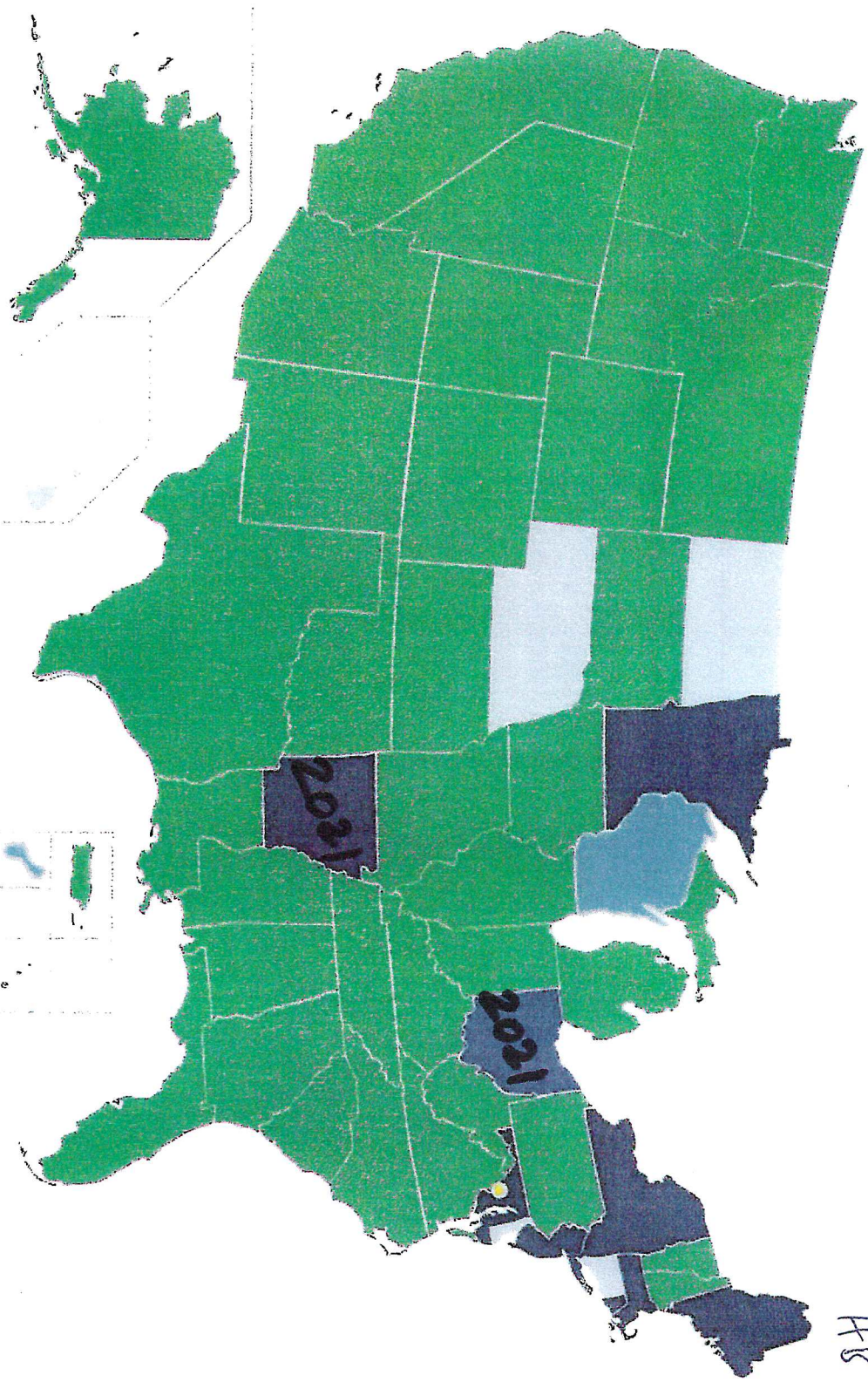
Section 4 of the bill would add ‘loss of income’ to the awards to the defendant in a civil case where immunity applies. This is important because there are often harms that an innocent defendant incurs during a frivolous lawsuit beyond just attorney’s fees and court costs. It often tarnishes their reputation and can harm their ability to earn a living even if they are innocent and justified in their actions under the law.

Finally, Section 5 of the bill protects an individual from prosecution for brandishing a weapon on their own property. This provision would not allow an individual to terrorize, menace, or participate in other disorderly conduct. This change is necessary to ensure that all property owners are legally allowed to protect their property without risk of criminal charges in cases similar to that of the St. Louis, Missouri couple who displayed firearms and successfully deterred rioters from entering their property and ultimately protected themselves and their families from harm, but were later charged with a crime.

Madame Chairman and Members of the committee, I respectfully request a DO-PASS recommendation from your committee. Thank You for your time.

*BR*

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- Stand your ground (35 states plus PR, CNMI) 37 States as of 4/1/21
- Duty to retreat except in your home (AR, MA, MD, ME, MN, NJ, NY, RI)
  - Duty to retreat except in your home or vehicle (OH)
  - Duty to retreat except in your home or workplace (CT, DE, HI, ND, NE)
  - Duty to retreat except in your home or vehicle or workplace (WI, GU)
  - Middle-ground approach (DC)
  - No settled rule (AS, VT)

