

January 25, 2021

Judiciary Committee
HB 1193

Chairman Klemin and Committee members:

Let the record reflect my support for House Bill 1193 ("HB 1193"), with further amendments requested (detailed below), and as introduced by Representatives Magrum, Becker, Christensen, Ertelt, Fegley, Jones, Kading, Kiefert, and Senators Clemens, Heitkamp, D. Larsen, and Vedaa.

A duty to retreat, as currently required under Section 1, 12.1-05-07(2)(b), cedes rights of would-be victims to that of the criminal. While I do not disagree that retreating should be a preferred response to the use of deadly force when and where possible, this subsection creates a higher legal duty of care upon the law-abiding than it does the lawless. Undoubtedly this was not the intent of the provisions HB 1193 seeks to strike, but the plain text, as written, effectively creates this uneven duty in favor of the criminal. HB 1193 corrects this disparity.

Further amendments requested - strike Section 1, 12.1-05-07(2)(f) in its entirety. I fail to see how deadly force can be justifiable under any of the circumstances listed below (emphases mine):

*When used by a duly licensed physician, or an individual acting at the physician's direction, if the force is necessary to administer a recognized form of **treatment to promote the physical or mental health of a patient** and if the treatment is administered in an emergency; with the consent of the patient, or, **if the patient is a minor or an incompetent person**, with the consent of the patient's parent, guardian, or other person entrusted with the patient's care and supervision; or by order of a court of competent jurisdiction.*

For the sake of clarity, I support the changes proposed under HB 1193 in their entirety, but would like to see subsection (f) of Section 1, 12.1-05-07(2) stricken as well.

Respectfully,