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THE CASTLE DOCTRINE AND STAND-YOUR-GROUND LAW

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This report provides background information on the Castle Doctrine and stand-your-ground laws.

SUMMARY

The Castle Doctrine and “stand-your-ground” laws are affirmative defenses for individuals charged with criminal homicide. The Castle Doctrine is a common law doctrine stating that an individual has no duty to retreat when in his or her home, or “castle,” and may use reasonable force, including deadly force, to defend his or her property, person, or another. Outside of the “castle,” however, an individual has a duty to retreat, if able to do so, before using reasonable force. Stand-your-ground laws, by comparison, remove the common law requirement to retreat outside of one's “castle,” allowing an individual to use force in self-defense when there is reasonable belief of a threat. Deadly force is reasonable under stand-your-ground laws in certain circumstances, such as imminent great bodily harm or death.

Forty-six states, including Connecticut, have incorporated the Castle Doctrine into law. Connecticut law justifies the use of reasonable physical force, including deadly force, in defense of premises. Connecticut courts have recognized the common law privilege to challenge an unlawful entry into one's home, to the extent that a person's conduct does not rise to the level of a crime. Deadly force is justified in defense of one's property by a person who is privileged to be on the premises and who reasonably believes such force is necessary to prevent an attempt by the criminal trespasser to commit any crime of violence.

Twenty states have stand-your-ground laws. Generally, these laws allow an individual to use force in self-defense when there is reasonable belief of a threat, without an obligation to retreat first if the individual (1) has a legal right to be at the location and (2) is not engaged in an unlawful activity. Connecticut does not have a stand-your-ground law. Connecticut law specifically requires an individual to retreat, if able to do so, before using reasonable force.

CASTLE DOCTRINE

The Castle Doctrine is a common law doctrine that designates a person's abode (or, in some states, any place legally occupied, such as a car or place of work) as a place in which the person has certain protections and immunities and allows such a person in certain circumstances, to attack an intruder instead of retreating. Typically, deadly force is considered justified homicide only in cases when the actor reasonably feared imminent peril of death or serious bodily harm to oneself or another. The doctrine is not a defined law that can be invoked, but is a set of principles which is incorporated in some form in the law of most states. Forty-six states, including Connecticut, have incorporated the Castle Doctrine into law.

Connecticut

The Castle Doctrine is incorporated into Connecticut law governing the use of physical force in defense of premises. This law states that a person who possesses or controls a premises, or is licensed or privileged to be on such premises, is justified in using reasonable physical force upon another person when he or she reasonably believes it to be necessary to prevent or stop someone from criminally trespassing. Deadly force is reasonable only (1) to defend oneself or another; (2) when one reasonably believes deadly force is necessary to prevent an attempt by the trespasser to commit arson or any violent crime; or (3) to the extent the person reasonably believes it is necessary and only to prevent or terminate an unlawful entry by force into his or her dwelling or place of work ([CGS § 53a-20](#)).

In the last five years, two bills have been introduced seeking to expand the Castle Doctrine, but none have made it past the Judiciary Committee.

Connecticut courts have recognized the common law privilege to challenge an unlawful entry into one's home, to the extent that a person's conduct does not rise to the level of a crime (*State v. Brocuglio*, 264 Conn. 778, 794 (2003)). In finding for the defendants in homicide cases, courts have interpreted [CGS §53a-20](#) as permitting the use of deadly force by a person who is privileged to be on the premises and who “reasonably believes [such force] is necessary to prevent an attempt by the [criminal] trespasser to commit arson or any crime of violence” (*State v. Garrison*, 203 Conn. 466, 472, (1987)).

STAND-YOUR-GROUND

Stand-your-ground laws allow someone to use force in self-defense when there is reasonable belief of a threat, without an obligation to retreat first. Twenty states, excluding Connecticut, have stand-your-ground laws. Generally, these laws require the person to (1) have a legal right to be at the location and (2) not be engaged in an unlawful activity.

Connecticut

Connecticut does not have a stand-your-ground law, but instead requires an individual to retreat when able to do so. Under state law, the use of deadly force that might otherwise have been justifiable is not warranted if someone “knows that he can avoid the necessity of using such force with complete safety...by retreating...” ([CGS § 53a-19\(b\)](#)); *State v. Garrison*, 203 Conn. 466, 472, (1987)). The state's Castle Doctrine law is an exception to this requirement to retreat. In 2007, a [bill](#) was introduced to enact stand-your-ground legislation, but did not pass the Judiciary Committee.

Florida

Florida's stand-your-ground law has come into the national spotlight following the shooting death of teenager Trayvon Martin by a neighborhood watch volunteer, George Zimmerman. Florida law states that a person has the right to stand his or her ground if he or she (1) reasonably believes it is necessary to do so to prevent death or great bodily harm, (2) is not engaged in an unlawful activity and (3) is attacked in any place where he or she has a right to be (FSA § 776.013(3)).

Florida courts have interpreted the legislature's creation of a stand-your-ground law as creating an affirmative defense, expanding the right of self-defense and abolishing the common law “duty to retreat” when a person uses deadly force in self-defense to prevent imminent great bodily harm or death. But in cases where a defendant is engaged in an unlawful activity or was in a place where he did not have a right to be at the time he was attacked, the common law duty to retreat still applies (*Dorsey v. State*, 74 So.3d 521 (2011)).

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