

**SENATE BILL REPORT**

**ESB 5140**

**AS PASSED SENATE, JANUARY 29, 1992**

**Brief Description:** Authorizing the use of physical force against intruders.

**SPONSORS:** Senators McCaslin, Patterson and L. Smith.

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, Madsen, Newhouse, and Rasmussen.

**Minority Report:** Do not pass.

Signed by Senators L. Kreidler and A. Smith.

**Staff:** Jon Carlson (786-7459)

**Hearing Dates:** February 5, 1991; February 15, 1991

**BACKGROUND:**

Current law permits citizen use of deadly force if it is used in the defense of self or others when the perpetrator attempts to commit a felony or do great personal injury, and there is imminent danger that the perpetrator's actions may be successful. These provisions appear to give citizens an extremely broad right of self-defense. However, the Washington courts have consistently interpreted this statute in light of the common law rules of self-defense, which finds the use of deadly force appropriate only if the felony to be prevented is of a violent nature. In order to use deadly force, a person must be threatened with imminent death or great bodily harm, and it must be necessary to resort to deadly force in order to avoid the serious harm threatened.

It is suggested that, in certain circumstances, the occupants of dwellings should be afforded a broader use of deadly force than is currently allowed under present law.

**SUMMARY:**

An occupant of a dwelling may use any amount of force within the dwelling, including deadly force, against a person who unlawfully enters the dwelling if the occupant has reason to believe: 1) that the intruder has committed, is committing, or is about to commit a crime in the dwelling in addition to the unlawful entry; and 2) that the intruder might use physical force against any occupant.

An occupant of a dwelling is immune from criminal prosecution or civil liability if he or she uses physical force in accordance with these provisions.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:** None

**TESTIMONY AGAINST:**

The use of deadly force when there is no real or apparent danger to the occupant should be discouraged (written testimony).

**TESTIFIED:** No one