

HB

24

<TARGET><BILL>HB 24</BILL><SUBJECT>HB
24</SUBJECT><COMM>SJUD28</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 3/25/13

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/27/13

Judiciary Committee considered CS FOR HOUSE BILL NO. 24(JUD)

HB 24 SELF DEFENSE

"An Act relating to self-defense in any place where a person has a right to be."

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM/OPA			✓	1
ADM/PDA			✓	2
LAW			✓	3
DPS			✓	4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Wielechowski	✓			
	McGuire	✓			
	Dyson	✓			
	Olson			✓	
CHAIR:	Coyhill	✓			

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 24(JUD)

- 1 Page 2, line 3, following "be":
- 2 Insert "and the person is using deadly force in self-defense under (a)(1) - (6) of this
- 3 section or against robbery in the first degree"

Sec. 11.81.330. Justification: Use of nondeadly force in defense of self.

(a) A person is justified in using nondeadly force upon another when and to the extent the person reasonably believes it is necessary for self-defense against what the person reasonably believes to be the use of unlawful force by the other person, unless

(1) the person used the force in mutual combat not authorized by law;

(2) the person claiming self-defense provoked the other's conduct with intent to cause physical injury to the other;

(3) the person claiming self-defense was the initial aggressor; or

(4) the force used was the result of using a deadly weapon or dangerous instrument the person claiming self-defense possessed while

(A) acting alone or with others to further a felony criminal objective of the person or one or more other persons;

(B) a participant in a felony transaction or purported transaction or in immediate flight from a felony transaction or purported transaction in violation of AS 11.71; or

(C) acting alone or with others in revenge for, retaliation for, or response to actual or perceived conduct by a rival or perceived rival, or a member or perceived member of a rival group, if the person using deadly force, or the group on whose behalf the person is acting, has a history or reputation for violence among civilians.

(b) A person who is not justified in using force in self-defense in the circumstances listed in (a)(1) - (3) of this section is justified in using force in self-defense if that person has withdrawn from the encounter and effectively communicated the withdrawal to the other person, but the other person persists in continuing the incident by the use of unlawful force.

Sec. 11.81.335. Justification: Use of deadly force in defense of self.

(a) Except as provided in (b) of this section, a person who is justified in using nondeadly force in self-defense under AS 11.81.330 may use deadly force in self-defense upon another person when and to the extent the person reasonably believes the use of deadly force is necessary for self-defense against

(1) death;

(2) serious physical injury;

(3) kidnapping, except for what is described as custodial interference in the first degree in AS 11.41.320;

- (4) sexual assault in the first degree;
- (5) sexual assault in the second degree;
- (6) sexual abuse of a minor in the first degree; or
- (7) robbery in any degree.

(b) A person may not use deadly force under this section if the person knows that, with complete personal safety and with complete safety as to others being defended, the person can avoid the necessity of using deadly force by leaving the area of the encounter, except there is no duty to leave the area if the person is

(1) on premises

(A) that the person owns or leases;

(B) where the person resides, temporarily or permanently; or

(C) as a guest or express or implied agent of the owner, lessor, or resident;

(2) a peace officer acting within the scope and authority of the officer's employment or a person assisting a peace officer under AS 11.81.380;

(3) in a building where the person works in the ordinary course of the person's employment; or

(4) protecting a child or a member of the person's household.

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 24(JUD)

BY SENATOR COGHILL

- 1 Page 2, line 3, following "be":
- 2 Insert "and the person is using deadly force in self-defense under (a)(1) - (6) of this
- 3 section or against robbery in the first degree"

ALASKA STATE LEGISLATURE

Member:
House Finance Committee

Chair:
House Budget Sub Committees on:
- Department of Health & Social Services
- Department of Transportation & Public
Facilities



Session:
Alaska State Capitol
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Representative Mark Neuman

Rep.Mark.Neuman@akleg.gov

March 20, 2013

Dear Senator Coghill, Chairs of Senate Judiciary

Subject: HB 24 "An Act relating to Self-defense in any place where a person has a right to be."

Attached is a committee package for House Bill 24, please consider scheduling this legislation at your earliest convenience for the Senate Judiciary Committee. I look forward to discussing HB 24 with yourselves and other members of the Committee.

Included are the following:

- Letter of Request
- Sponsor statement.
- Current version of the bill (28-LS0142\U)
- Fiscal Notes 1- 4

Please feel free to contact me or my aide Rex Shattuck (465-2696) with any questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Neuman".

Representative Mark Neuman

ALASKA STATE LEGISLATURE

Member:
House Finance Committee

Chair:
House Budget Sub Committees on:
- Department of Health & Social Services
- Department of Transportation & Public
Facilities



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Fax: (907) 373-4745

Representative Mark Neuman

Rep.Mark.Neuman@akleg.gov

Sponsor Statement

Alaska Statutes already recognize that we have a right to use deadly force to protect our family, person, and property. HB 24 further clarifies that right exists not only in our home but also in any other place that we have a right to be.

This legislation clarifies the individuals' right to stand their ground and not second guess the consequence of protecting their family or self.

HB 24 strengthens the legal recognition of a basic human right to defend oneself, by sending a message to the Judiciary and Law Enforcement that it is the criminal who has the duty to retreat.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSHB 24(JUD)
Fiscal Note Number: 1
(H) Publish Date: 2/11/13

Identifier: HB024-DOA-OPA-2-01-13
Title: SELF DEFENSE
Sponsor: ** NEUMAN, ISAACSON
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division	Office of Public Advocacy	Date:	02/01/2013 10:00 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	02/01/13
	Department of Administration		

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSHB 24(JUD)

Analysis

This bill amends the statute governing self-defense and eliminates the duty to retreat if the person claiming self-defense is "in any place where the person has a right to be." The question of whether a person has a duty to retreat is closely tied to the question of whether a person is justified in using deadly force.

Eliminating the duty in certain circumstances, therefore, is not likely to have a fiscal impact on the cases charged by the state. Accordingly, the Office of Public Advocacy submits a zero impact fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSHB 24(JUD)
 Fiscal Note Number: 2
 (H) Publish Date: 2/11/13

Identifier: HB024-DOA-PDA-2-01-13
 Title: SELF DEFENSE
 Sponsor: ** NEUMAN, ISAACSON
 Requester: House Judiciary

Department: Department of Administration
 Appropriation: Legal and Advocacy Services
 Allocation: Public Defender Agency
 OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	Quinlan Steiner	Phone:	(907)334-4414
Division:	Public Defender Agency	Date:	02/01/2013 12:52 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	02/01/13
	Department of Administration		

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSHB 24(JUD)

Analysis

This bill amends the statute governing self-defense and eliminates the duty to retreat if the person claiming self-defense is "in any place where the person has a right to be." The question of whether a person has a duty to retreat is closely tied to the question of whether a person is justified in using deadly force.

Eliminating the duty in certain circumstances, therefore, is not likely to have a fiscal impact on the cases charged by the state. Accordingly, the Agency submits a zero fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSHB 24(JUD)
 Fiscal Note Number: 3
 (H) Publish Date: 2/11/13

Identifier: HB024-LAW-CRIM-02-05-13
 Title: SELF DEFENSE
 Sponsor: ** NEUMAN, ISAACSON
 Requester: (H) Judiciary

Department: Department of Law
 Appropriation: Criminal Division
 Allocation: Criminal Justice Litigation
 OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	<u>Loretta Withington, Division Operations Manager</u>	Phone:	(907)465-5427
Division	<u>Administrative Services Division</u>	Date:	02/05/2013 12:00 AM
Approved By:	<u>Michael C. Geraghty, Attorney General</u>	Date:	02/05/13
	<u>Department of Law</u>		

Analysis

House Bill 24 expands the places from which a person need not retreat before using deadly force in self defense to any place the person has a right to be. In all cases where deadly force is used and the person does not retreat, and it is not in their home or workplace, it is more likely the case will go to trial.

The fiscal note is zero because it is anticipated the department will prosecute these cases with existing resources.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSHB 24(JUD)
 Fiscal Note Number: 4
 (H) Publish Date: 2/11/13

Identifier: HB024-DPS-DET-02-01-13
 Title: SELF DEFENSE
 Sponsor: ** NEUMAN, ISAACSON
 Requester: House Judiciary

Department: Department of Public Safety
 Appropriation: Alaska State Troopers
 Allocation: Alaska State Trooper Detachments
 OMB Component Number: 2325

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Lieutenant Rodney Dial
 Division: Alaska State Troopers
 Approved By: Joseph A. Masters, Commissioner
Department of Public Safety

Phone: (907)254-1284
 Date: 02/01/2013 10:15 AM
 Date: 02/01/13

Analysis

This proposed legislation would amend AS 11.81.335 - Justification: Use of deadly force in defense of self - by adding a new paragraph (5) under subsection (b) which provides exceptions to a person's duty to leave the area. The new paragraph (5) provides that there is no duty to retreat if the person is in any place the person has a right to be.

Passage of this bill will have no fiscal impact to the Division of Alaska State Troopers.



Article 05. »ROBBERY«, EXTORTION, AND COERCION

Sec. 11.41.500. »Robbery« in the first degree.

(a) A person commits the crime of »robbery« in the first degree if the person violates AS 11.41.510 and, in the course of violating that section or in immediate flight thereafter, that person or another participant

(1) is armed with a deadly weapon or represents by words or other conduct that either that person or another participant is so armed;

(2) uses or attempts to use a dangerous instrument or a defensive weapon or represents by words or other conduct that either that person or another participant is armed with a dangerous instrument or a defensive weapon; or

(3) causes or attempts to cause serious physical injury to any person.

(b) »Robbery« in the first degree is a class A felony.

Sec. 11.41.510. »Robbery« in the second degree.

(a) A person commits the crime of »robbery« in the second degree if, in the course of taking or attempting to take property from the immediate presence and control of another, the person uses or threatens the immediate use of force upon any person with intent to

(1) prevent or overcome resistance to the taking of the property or the retention of the property after taking; or

(2) compel any person to deliver the property or engage in other conduct which might aid in the taking of the property.

(b) »Robbery« in the second degree is a class B felony.

Sec. 11.41.520. Extortion.

(a) A person commits the crime of extortion if the person obtains the property of another by threatening or suggesting that either that person or another may

(1) inflict physical injury on anyone, except under circumstances constituting »robbery« in any degree, or commit any other crime;

(2) accuse anyone of a crime;

(3) expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule or to impair the person's credit or business repute;

(4) take or withhold action as a public servant or cause a public servant to take or withhold action;

(5) bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the person making the threat or suggestion purports to act;

(6) testify or provide information or withhold testimony or information with respect to a person's legal claim or defense; or

(7) inflict any other harm which would not benefit the person making the threat or suggestion.

(b) A threat or suggestion to perform any of the acts described in (a) of this section includes an offer to protect another from any harmful act when the offeror has no apparent means to provide the protection or when the price asked for rendering the protection service is grossly disproportionate to its cost to the offeror.

(c) It is a defense to a prosecution based on (a)(2), (3), or (4) of this section that the property obtained by threat of accusation, exposure, lawsuit, or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit, or other official action relates, or as compensation for property or lawful services.

Sec. 11.81.330. Justification: Use of nondeadly force in defense of self.

(a) A person is justified in using nondeadly force upon another when and to the extent the person reasonably believes it is necessary for self-defense against what the person reasonably believes to be the use of unlawful force by the other person, unless

(1) the person used the force in mutual combat not authorized by law;

(2) the person claiming self-defense provoked the other's conduct with intent to cause physical injury to the other;

(3) the person claiming self-defense was the initial aggressor; or

(4) the force used was the result of using a deadly weapon or dangerous instrument the person claiming self-defense possessed while

(A) acting alone or with others to further a felony criminal objective of the person or one or more other persons;

(B) a participant in a felony transaction or purported transaction or in immediate flight from a felony transaction or purported transaction in violation of AS 11.71; or

(C) acting alone or with others in revenge for, retaliation for, or response to actual or perceived conduct by a rival or perceived rival, or a member or perceived member of a rival group, if the person using deadly force, or the group on whose behalf the person is acting, has a history or reputation for violence among civilians.

(b) A person who is not justified in using force in self-defense in the circumstances listed in (a)(1) - (3) of this section is justified in using force in self-defense if that person has withdrawn from the encounter and effectively communicated the withdrawal to the other person, but the other person persists in continuing the incident by the use of unlawful force.

28th Legislature(2013-2014)

Journal Text for HB24 in the 28th LegislatureFull Journal

03-20-2013

House Journal

0598

HB 24

The following, which was advanced to third reading from the March 18, 2013, calendar (page 567), was read the third time:

CS FOR HOUSE BILL NO. 24(JUD)

"An Act relating to self-defense in any place where a person has a right to be."

Representative Gara moved and asked unanimous consent that CSHB 24(JUD) be returned to second reading for the specific purpose of considering Amendment No. 1. There being no objection, it was so ordered.

Amendment No. 1 was offered by Representatives Gara and Neuman:

Page 2, line 3, following "be":

Insert "and the person is using deadly force in self-defense under (a) (1) - (6) of this section or against robbery in the first degree"

Representative Gara moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Feige objected.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

CSHB 24(JUD)

Second Reading

Amendment No. 1

YEAS: 13 NAYS: 25 EXCUSED: 2 ABSENT: 0

Yeas: Drummond, Gara, Guttenberg, Holmes, Josephson, Kawasaki, Kerttula, Kreiss-Tomkins, Munoz, Nageak, Tarr, Tuck, P.Wilson

Nays: Austerman, Chenault, Costello, Feige, Foster, Gattis, Gruenberg, Hawker, Higgins, Hughes, Isaacson, Johnson, Keller, LeDoux, Lynn, Millett, Neuman, Olson, Pruitt, Reinbold, Saddler, Seaton, Stoltze, Thompson, T.Wilson

03-20-2013

House Journal

0599

Excused: Edgmon, Herron

And so, Amendment No. 1 was not adopted.

CSHB 24(JUD) was automatically in third reading.

The question being: "Shall CSHB 24(JUD) pass the House?" The roll was taken with the following result:

CSHB 24(JUD)

Third Reading

Final Passage

YEAS: 33 NAYS: 5 EXCUSED: 2 ABSENT: 0

Yeas: Austerman, Chenault, Costello, Feige, Foster, Gara, Gattis, Gruenberg, Hawker, Higgins, Hughes, Isaacson, Johnson, Kawasaki, Keller, Kreiss-Tomkins, LeDoux, Lynn, Millett, Munoz, Nageak, Neuman, Olson, Pruitt, Reinbold, Saddler, Seaton, Stoltze, Tarr, Thompson, Tuck, P.Wilson, T.Wilson

Nays: Drummond, Guttenberg, Holmes, Josephson, Kerttula

Excused: Edgmon, Herron

And so, CSHB 24(JUD) passed the House.

Representative Millett gave notice of reconsideration of the vote on CSHB 24(JUD).

Representative Millett moved and asked unanimous consent that reconsideration of CSHB 24(JUD) be taken up on the same day. Representative Millett withdrew the motion.
