

# Tennessee's self-defense law comes under fire

*Despite protests, lawmakers don't expect it to be changed in next legislative session*

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Days after a jury acquitted George Zimmerman in the shooting death of Trayvon Martin, lawmakers and civic leaders across the country called for a review of “stand your ground” self-defense laws.

President Barack Obama called on at least 22 states to reconsider those laws, voicing concerns similar to those of local protesters demanding change.

“If we’re sending a message, as a society, in our communities, that someone who is armed potentially has the right to use those firearms, even if there’s a way for them to exit from a situation, is that really going to be contributing to the kind of peace and security and order that we’d like to see?” Obama said in July.

The Tennessee Black Caucus of State Legislators agreed, saying lawmakers should revisit the issue when the General Assembly reconvenes in January.

“What we want to do is simply look at our law ... to see if we need to make any changes at all,” said Rep. Larry Miller, D-Memphis, the caucus’ chairman. “The ultimate goal is to, No. 1, protect the community, the residents.”

Nineteen of the state’s 41 justifiable homicides in 2012 occurred in Memphis, according to the Tennessee Bureau of Investigation. Some lawmakers say changes to Tennessee’s law are not expected to happen in 2014.

“There’s just no need,” said Rep. Glen Casada, R-Franklin, the Republican Caucus chairman. “This law is good for everybody.”

Nashville defense attorney David Raybin, who helped craft Tennessee’s law, said rewriting it might cause more confusion and lead people not to protect themselves in the face of a real threat.

In Tennessee, as in Florida, people are authorized to kill if they have a reasonable belief that they face an imminent threat of death or serious injury.

Part of the law, dubbed the Castle Doctrine, gives Tennesseans even more leeway to act. That portion of the law allows a person to use lethal force in his home even if he doesn’t fear serious injury or death, and also extends to the inside of a person’s business and car.

Critics argue that the law encourages armed citizens to choose violence first.

In a report issued last year, the National Bureau of Economic Research found that states which have a “stand your ground” law have seen an increase in homicides.

TN homicides up

Justifiable homicides in Tennessee have risen in recent years, according to the TBI. Nashville’s contribution to the total is relatively small; the lion’s share of homicides have occurred in Memphis.

Statewide, justifiable homicides totaled 17 in 2009, according to TBI data, but climbed to 41 in 2012.

In 2012, Metro police reported three justifiable-homicide cases that did not involve police or domestic incidents.

Those included a man who fired on an armed intruder forcing his way into the man’s apartment, a man who shot an armed robber in a parking lot and man who killed an armed intruder on his front porch.

In each case, the Metro District Attorney’s Office determined the person who pulled the trigger had done nothing illegal.

Kathy Morante, an assistant district attorney in Nashville, said in most instances, self-defense killings are clear-cut. When circumstances are questionable, she said, the evidence is presented to a grand jury to decide if someone should be charged with a crime.

Tennessee’s handling of self-defense cases isn’t unique.

“We’re pretty much in step with ... what most states are using,” Morante said.

Raybin said changing the law to reincorporate a duty to retreat could be problematic, because it could cause people to hesitate in the face of real danger.

“Maybe a better answer to it would be ... a better education of what the law actually is,” he said. “Part of the problem with the rule is a lack of understanding. ... (It) is not a license to kill. Too many people think that’s what it is.”

The law says self-defense does not apply when the threat of serious harm is not immediate or if the citizen’s actions created the threatening confrontation.

“You can’t provoke somebody and then shoot them because they are defending themselves,” Raybin said. “You can’t provoke someone to give yourself justification for self-defense.”