

Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026

Submission No: 110

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This submission opposes the Criminal Code (Defence of Dwellings and Other Premises – Castle Law) Amendment Bill 2026 on the grounds that it is incompatible with the Human Rights Act 2019 (Qld), unsupported by credible evidence, and contradicted by international research showing that similar laws increase violence and homicide without improving community safety. The Bill appears to rely on anecdote rather than expert consultation, weakens essential proportionality safeguards, and risks encouraging vigilantism. A similar amendment was submitted for consideration in 2024 and referred to the Community Safety and Legal Affairs Committee. Expert bodies rejected the proposal, which reinforces the argument that this bill is unjustified. I urge the Justice, Integrity and Community Safety Committee to reject the bill in its entirety, based on the following reasons:

1. Human Rights Incompatibility

The Explanatory Notes acknowledge that the Bill is not compatible with the Human Rights Act 2019 (Qld). This alone should give Parliament serious pause. The relevant right engaged is the Right to Life (s16), which protects all persons, including alleged offenders, from retributive deprivation of life. The Human Rights Act exists to prevent regression into punitive, retributive models of justice. Passing legislation that knowingly infringes fundamental rights without compelling evidence undermines the integrity of the Act and the Parliament's commitment to rights respecting governance. In 2024 the Queensland Family and Child Commission (QFCC) explicitly stated in their submission the proposed amendments conflicted with the Human Rights Act and were not justified by evidence. The Queensland Law Society also warned that the proposal would amount to "state sanctioned murder". These concerns remain for the 2026 bill.

2. Lack of Credible Evidence and Poor Consultation

In his explanatory speech, the Member for Traeger asserts that "you cannot ignore the evidence", yet the Bill is not supported by any credible empirical foundation. Consultation was conducted primarily through an e petition, not through engagement with criminologists, legal experts, victim advocates, or community safety specialists. The statistics cited similarly fail to support the Bill. His reference to Roy Morgan Research that 77 per cent of Queenslanders reported they were concerned about crime, reflects a fear of crime, not crime itself. Research from the Australian Institute of Criminology consistently shows that public perception of crime is heavily influenced by media coverage, not by actual crime rates (Roberts & Indermaur). Public anxiety cannot be treated as empirical justification for expanding the lawful use of force.

The member referenced unlawful entry figures from 2023, which critically do not indicate if a homeowner was actually present at the time. Research from the NSW Bureau of Crime Statistics (BOSCAR, 2021) found youth burglary offending typically occurred when homes were unoccupied. Further, the member's anecdote about a friend who threatened children with a spade, raises more questions than it answers, including why children were repeatedly targeting the property and whether escalating to a weapon was appropriate. The Australian Institute of Criminology (2022) state youth property offending is often driven by social disadvantage. Australian literature consistently identifies youth offending as opportunistic, non violent, and rarely premeditated. The evidence does not support the premise that young people engaged in property crime pose a level of threat that warrants expanding the legal grounds for the use of potentially lethal force.

3. International Evidence

The Bill parallels elements of "castle doctrine" and "stand your ground" laws, commonly used in parts of the United States. These laws have been extensively studied, and the findings are clear. They result in increased homicide rates, preventable deaths, and misuse of the laws. A study by Texas A&M University found no evidence that such laws deter crime but did result in significant increases in homicide (Cheng & Hoekstra, 2013). In 2015 the American Bar Association concluded that stand your ground laws were associated with racial disparities and increased violence. Another review conducted in 2018 by RAND Corporation concluded there was moderate evidence that stand your ground laws increased homicide rates. In 2022, the JAMA Network Open found that homicide increased by 8-11% in US states where stand your ground laws were enacted (Humphreys et al., 2022). Comparatively, Australia has no empirical evidence supporting castle doctrine style laws, and criminological research consistently shows that harsher penalties do not deter opportunistic offending (Weatherburn 2010; BOCSAR 2019).

Internationally, cases such as Yoshihiro Hattori (Louisiana, 1992), an exchange student shot after approaching a house for a Halloween event; Jordan Davis (Florida, 2012), a teenager killed during an argument over loud music; and Renisha McBride (Michigan, 2013), a young woman seeking help after a car crash shot on a homeowner's porch. Each of these cases demonstrate how expanded defensive force provisions can lead to preventable deaths due to misinterpreting threat, disproportionate responses, and racial or cultural bias. They are cautionary examples of what happens when proportionality is weakened or removed.

4. Importance of Proportionality

The Member for Traeger criticised the Criminal Code's requirement that defensive force be "proportionate". He offered: "If I pulled a baseball bat out from under the bed and started flogging them and they did not have any weapon; I could face seven to 14 years in prison." This example illustrates precisely why proportionality is essential. The law should not authorise disproportionate violence. Courts already consider the circumstances of each case, including fear, stress, and the behaviour of the intruder. University of New South Wales have repeatedly argued that proportionality protects both defendants and victims from arbitrary violence. To remove proportionality undermines a core principle of criminal law and further invites excessive force and increases the risk of fatal outcomes (Crofts & Loughnan, 2017).

5. Risk of Vigilantism

Although the Explanatory Notes claim the Bill "does not create a licence for vigilante conduct", the practical effect is exactly that. Expanding the right to use force in dwellings lowers the threshold for violence and encourages individuals to take matters into their own hands. The Member's own anecdotes (such as a friend threatening children with a spade) demonstrate how easily situations can escalate when individuals feel empowered to use force. Queensland courts already assess the reasonableness of defensive actions in context; weakening this safeguard invites excessive and potentially lethal force.

To conclude, the Criminal Code (Defence of Dwellings and Other Premises – Castle Law) Amendment Bill 2026 is unnecessary, unsafe, and should not proceed.