

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

Submission No: 153

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Publication: Making the submission and your name public

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

To: The Committee Secretary Justice, Integrity and Community Safety Committee Parliament House, Brisbane QLD 4000

Subject: Submission in Support of the Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026

1. Introduction

I write to express my strong support for the proposed amendments to Section 267 of the *Criminal Code 1899*. For too long, Queensland's self-defence laws have operated on a legal "knife's edge," requiring victims of violent home invasions to make complex, split-second calculations regarding "proportionate force" while under extreme duress. This Bill correctly restores the fundamental common law principle that a person's home is their sanctuary and that the law must unequivocally side with the victim, not the intruder.

2. The Principle of the Home as a Sanctuary

The "Castle Doctrine" is not a modern invention; it is a foundational pillar of Western law, famously articulated in *Semayne's Case (1604)*: "*The house of everyone is to him as his castle and fortress.*" The current legal framework in Queensland has drifted away from this principle by allowing for the prosecution of homeowners who fail to perfectly calibrate their response to an unlawful entry. By codifying Castle Law, this Bill recognises that a violation of a dwelling is not merely a property crime, but a violent assault on the psychological and physical safety of the occupants.

3. The Fallacy of "Reasonable Force" in Violent Intrusions

Under the current law, a resident must prove their belief in the necessity of force was "reasonable." This creates a "Monday morning quarterback" environment where courts and prosecutors analyse a victim's actions in the cold light of day—actions that were taken in the dark, in fear, and often in the presence of vulnerable family members.

The proposed Bill addresses this by identifying specific "Aggravating Circumstances" that justify decisive force:

- **Night-time Entry:** The inherent terror and lack of visibility during a nocturnal break-in make it impossible for a resident to determine an intruder's intent or armament.
- **Intruders "In Company":** A lone resident facing multiple intruders is at an immediate, life-threatening tactical disadvantage.
- **Presence of Weapons:** When an intruder is armed (or appears to be), the resident should not be legally required to wait for the intruder to strike first before defending themselves.

4. Removing the "Duty to Retreat"

The notion that a person has a duty to retreat within their own home is both tactically flawed and morally repugnant. Retreating from a room may lead a resident into a corner with no escape, or worse, toward the bedrooms of children or elderly relatives. By explicitly removing any perceived "duty to retreat" within a dwelling, this Bill ensures that Queenslanders can stand their ground to protect what is most precious to them without fear of future legal persecution.

5. Balancing Human Rights

Opponents of this Bill often cite the "Right to Life" under the *Human Rights Act 2019*. However, this submission argues that the **Right to Life** of the law-abiding occupant—along with their **Right to Security of Person (s29)** and **Right to Privacy and Home (s25)**—must be the primary consideration.

When an intruder unlawfully enters a dwelling, especially under the aggravating circumstances listed in the Bill, they have proactively created a high-risk environment. The legal responsibility for any resulting harm must lie solely with the individual who chose to violate the sanctity of the home, not the victim who was forced to respond.

6. Conclusion

The record-breaking petition of over 120,000 Queenslanders demonstrates a clear public mandate for this change. The tragic death of Emma Lovell in North Lakes served as a catalyst, proving that the current "deterrents" are failing. Passing this Bill will provide the legal certainty that law-abiding citizens deserve: that if they are forced to defend their "castle," the State will protect them, not prosecute them.