

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

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Submission To Justice, Integrity And Community Safety Committee of the Queensland Parliament

This submission is made to the Justice, Integrity and Community Safety Committee of the Queensland Parliament concerning the [Criminal Code \(Defence of Dwellings and Other Premises—Castle Law\) Amendment Bill 2026](#).

This submission is made by me, David Forbes, barrister-at law. I hold a Bachelor's degree in Commerce/ Economics (Hons), a Bachelor's degree in law and Masters degree in Law, all from the University of Melbourne. I was admitted to legal practice in 1991. I signed the roll of counsel at the Victorian Bar in 1996. I joined the Bar Association of Queensland in 2017 and have been practising from Townsville since then. I have appeared in all courts in Queensland, Victoria and all federal courts in Australia.

The *Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026* “seeks to broaden the circumstances in which an individual can lawfully respond to a home invasion with such force that may result in grievous bodily harm or even death to the intruder.”

The bill is aimed at combatting higher crime rates, particularly burglary. However, as presently drafted, it is likely to result in death and grievous bodily harm to innocent persons and cause a public outcry.

The central defect in the bill is that its focus is on the reasonable belief of the occupier (or person assisting the occupier) and does not contain any requirement for the force used by that person or those persons to be reasonable.

Proposed sub-section 267(1) uses the terms “unlawfully entering” or “unlawfully remaining” in a dwelling or premises. This will engage several other Acts that determine whether a person entering or remaining in a dwelling is lawful, e.g. police members lawfully entering a property to execute an arrest or search warrant. The language of proposed sub-section 267(1) is taken from s.11 of the Summary Offences Act 2005 which states:

11 Trespass

- (1) person must not unlawfully enter, or remain in, a dwelling or the yard for a dwelling.

Thus, in applying the new law the Courts will consider the case law that has considered s.11 of the Summary Offences Act 2005.

Consider the following scenarios.

Scenario (1)

A political candidate opens a gate to a house in their electorate just as night falls but fails to see the sign posted by the gate that says "Canvassers, hawkers and aspiring politicians prohibited". The law implies a licence to a visitor to enter through an unlocked gate. But here the implied licence has been withdrawn to "canvassers, hawkers and political candidates. The candidate's entry onto the premises is therefore unlawful. Sub-section (2) acts to authorise lethal force to prevent entry at night. The occupier is therefore authorised to shoot the hapless candidate even before they have set foot inside the relevant premises.

Scenario (2)

Two children jump over a neighbour's fence to retrieve a ball. However, the fence cannot be scaled on the other side and the children are trapped in the neighbour's yard. Because the children are "in company with one or more persons" sub-section (2) is again engaged and the occupier is authorised to cause death or grievous bodily harm to prevent the children remaining on the premises.

Scenario (3)

A police member carrying a service pistol is tasked to serve a domestic violence order. However, the member innocently mis-identifies the relevant property and enters the wrong address. The entry onto the property is unlawful but because the police member is armed, subsection (2)(a)(iii) is engaged. The occupier is now authorised to use lethal force against the innocent police member to prevent them from entering the premises.

Conclusion

The bill in its current form is likely to lead to the deaths or grievous bodily harm of innocent Queenslanders. I urge the committee to amend or recommend rejection of the bill.

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