

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

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Committee Secretary
Economics and Governance Committee
Queensland Parliament

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

Dear Committee Secretary,

I am a Queensland resident writing to make a submission in support of strengthening legal protections for individuals who defend themselves, their families, and their property within their own homes, as proposed in the Criminal Code (Defence of Dwellings and Other Premises—
Castle Law) Amendment Bill 2026.

Under current Queensland law, self-defence is governed by provisions of the Criminal Code, which limit individuals to using force that is considered “reasonably necessary” in the circumstances. However, this standard lacks clarity and is inherently retrospective, being assessed after the event by courts rather than at the moment of threat. This creates significant legal uncertainty for victims acting in rapidly evolving and high-risk situations.

In real-world scenarios, individuals may be asleep, startled awake, or confronted suddenly by an intruder. In such circumstances, the human fight-or-flight response is triggered, and decisions must be made within seconds. Expecting a person in this state to precisely calibrate what level of force is “reasonable” is not consistent with human physiology or behavioural science.

Empirical data supports the seriousness and unpredictability of unlawful entry into homes. According to the Australian Bureau of Statistics, approximately 2.1% of Australian households experienced a break-in in 2023–24, with 14% of those incidents involving direct confrontation between the offender and an occupant. In addition, attempted break-in rates in Queensland have increased over time, rising from 2.3% to 3.2% in recent years. These figures demonstrate that unlawful entry into dwellings is not only a property crime but can escalate into direct personal threat.

Queensland-specific data also shows fluctuations and increases in certain offence categories over time. Between 2014–15 and 2023–24, recorded offences increased by approximately 18%, with unlawful entry offences increasing by 28.3% and robbery by over 100% during that period. More recent data indicates localised increases in break-ins across parts of South East Queensland, including rises of over 30% in some Brisbane suburbs over a three-year period. While some categories of crime have shown recent declines, the long-term trend and regional variation indicate that risks associated with unlawful entry remain a legitimate community concern.

It is also relevant to acknowledge broader social conditions. Economic pressures and cost-of-living challenges may contribute to increases in property-related offending, including theft and unlawful entry, sometimes linked to financial hardship or substance dependency. While these factors may inform prevention strategies, they do not reduce the immediate risk faced by occupants during a home invasion, nor should they diminish a person's right to protect themselves and others from harm.

Given these realities, I believe the law should better recognise the circumstances faced by victims by creating a stronger legal presumption in favour of the occupant. Where a person acts in genuine fear for their safety, their family, or others within the home against an unlawful intruder, they should not be subject to criminal charges solely because the force used resulted in injury or death.

Importantly, this submission does not advocate for unlimited use of force. Safeguards should remain to address clearly excessive, disproportionate, or malicious conduct. However, the current legal framework places undue risk on victims by requiring them to justify actions taken under extreme stress, while insufficiently accounting for the unlawful conduct that created the situation.

Reform in this area would improve legal clarity, reduce the risk of victims being criminalised, and better align the law with both empirical evidence and community expectations. A person's home should be a place of safety, and the legal system should reflect that principle by prioritising the protection of those who are confronted with unlawful and potentially dangerous intrusion.

I support reforms that strengthen protections for lawful occupants acting in genuine self-defence within their homes.

Yours sincerely,
James Paul O'Shea