

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

**Submission No:** 158

**Submission By:** Mio Hung

**Publication:** Making the submission and your name public

---

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

**To: The Committee Secretary, Community Safety and Legal Affairs Committee**

## **1. Submitter Background**

I submit this representation drawing upon my professional background as a Lecturer in Social Work and my academic expertise in Crime Control and Social Policy. My perspective integrates criminological theory with the human rights frameworks essential to social work practice.

## **2. Position Statement**

I **support** in principle the Bill's objective to restore community agency and address the perceived "failure of deterrence" in regional Queensland. I acknowledge that "Queenslanders do not feel safe in their own homes" and that the current legal framework may impose undue burdens on victims. However, the legislation must be refined to ensure that the removal of legal barriers for victims does not lead to an unintended devaluation of human life or a shift toward vigilantism and to ensure the Bill remains compatible with the Human Rights Act 2019.

## **3. Key Professional Arguments**

### **I. The Legal-Psychological Construct of "Reasonable Belief"**

- **The "Split-Second" Doctrine**  
Academic research in Criminology and Psychology suggests that the "Fight or Flight" response under extreme stress, cognitive processing is significantly impaired. Therefore, "Reasonable Belief" should not be scrutinized through the lens of 20/20 hindsight in a calm courtroom.
- **Removing the "Proportionate Force" Barrier**  
From a Situational Crime Prevention (SCP) standpoint, I support removing the requirement to calculate a "proportionate response." This ensures victims are not rendered the vulnerable party by being forced to "second-guess" their safety during a life-threatening crisis.

### **II. The Need for Contextual Triggers (Bridging to Critiques)**

- **Critique of Single-Factor Determinants (Section 267(2)(a)(i))**  
While I acknowledge the occupant's psychological limits, the law must not oversimplify the authorization of lethal force. Authorizing such force solely based on a temporal factor (the "Night" trigger) assumes all intruders are rational actors under Rational Choice Theory.
- **Risks to Vulnerable Populations**  
From a social work lens, many night-time intrusions involve individuals in Active Crisis (e.g. mental health episodes) who lack the cognitive capacity to be deterred. This simplifies the

trigger in a way that risks "unnecessary tragedies" involving individuals who lack mens rea (criminal intent).

### III. Ethical Inversion: Property vs. Right to Life

- **The Hierarchy of Rights**

International law and the Human Rights Act 2019 (Section 16) consistently place the Right to Life above the Right to Property. Elevating "ambiguous property damage" to a lethal force trigger creates an ethical inversion that challenges the foundations of social work.

- **Restorative Justice Considerations**

In a restorative framework, property loss can be remediated, whereas the loss of life is absolute. We must ensure the protection of Section 25 (Privacy and Home) does not lead to the irreversible devaluation of human life.

### IV. Ensuring Procedural Justice

- **Shifting the Evidentiary Burden**

To fulfill the Bill's goal of providing "surety" to victims, the legislation must clarify that the burden lies with the Crown to disprove the reasonableness of a homeowner's fear. This protects the victim from secondary victimization during legal proceedings.

- **Mitigating the Risk of Vigilantism**

However, the law must maintain a standardized "Reasonable Belief" filter to prevent vigilantism or scenarios of mistaken identity. A robust judicial review process ensures that lethal force remains a last resort, even within the Castle Law framework.

### 4. Recommendations

To ensure the Bill achieves its goal of community protection while maintaining legal integrity, I propose the following amendments directly addressing the core professional arguments:

1. **Codify the "Split-Second" Context and the "Reasonable Belief" Standard (Section 267(1)) (Corresponding to Argument I)**

The legislation should explicitly direct the courts to assess "Reasonable Belief" by accounting for the physiological and psychological limits of a defender under extreme stress. This codifies the support for removing the "Proportionate Force" barrier, ensuring victims are not penalized for cognitive impairments caused by immediate trauma.

Mandatory reporting and review are suggested. Any use of lethal force under these new provisions should trigger an independent review to ensure the "reasonable belief" was not biased or unfounded.

2. **Introduce Contextual Necessity for Temporal Triggers (Corresponding to Argument II)**

To mitigate risks to vulnerable populations (e.g. those in mental health crisis), people in a state of drunkenness or people who get lost, Section 267(2)(a)(i) should be amended to state that the "Night" trigger alone is insufficient for lethal force. It must be paired with an observable threat or a "reasonable belief" of imminent physical harm, moving away from a

purely deterministic, single-factor determinant.

**3. Preserve the Primacy of the Right to Life (Corresponding to Argument III)**

To prevent an "Ethical Inversion," Section 267(2)(a)(v) should be restricted. Lethal force for property damage should only be lawful if the damage is inextricably linked to an escalation of violence against the person. This ensures the protection of the home (Section 25, HR Act) does not supersede the absolute Right to Life (Section 16, HR Act) without extreme cause.

**4. Explicitly Formalise the Burden of Proof (Corresponding to Argument IV)**

The Bill must include a procedural clause stating that the onus lies with the Crown to disprove the reasonableness of a homeowner's belief beyond a reasonable doubt. This provides the promised "surety" to victims while maintaining a judicial filter that prevents the abuse of power or acts of vigilantism.

**5. Clarify the Scope of "Other Premises"**

Ensure that the expansion to business premises does not lead to a "Wild West" scenario in public-access commercial areas.

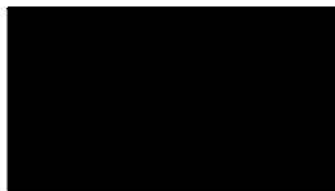
**5. Conclusion**

As a researcher in crime control and a social work academic, I recognize that "Queenslanders do not feel safe in their own homes" and that the current legal framework may impose undue burdens on victims of crime. I **support** the intent of the *Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026* to empower law-abiding citizens.

However, justice is a delicate balance. While we must remove the "Proportionate Force" barrier to protect those facing "split-second" crises, we must not let the law drift into vigilantism or an ethical inversion where property is valued over life. By refining the "Reasonable Belief" standard and ensuring procedural justice, we can create a Queensland where citizens are protected not only from intruders but also from the risk of unnecessary legal and social tragedies.

Thank you for taking the above into consideration.

Signature:



Name: Mio Hung

Credentials: Master of Social Work; Master of Crime Control and Social Policy.

Professional Standing: Social Work Lecturer and Member of the Australian Association of Social Workers (AASW).

(Note: This submission is made in a private capacity and does not necessarily reflect the views of my affiliated institutions.)

Date: 20 April 2026