



**Government of the Republic of Trinidad and Tobago**  
**Office of the Attorney General**



# **PROTECTION AGAINST HOME INVASION IN TRINIDAD AND TOBAGO**

**AN EXAMINATION OF STAND-YOUR-GROUND  
AND OTHER SELF-DEFENCE LAWS**

THE LAW REFORM COMMISSION OF TRINIDAD AND TOBAGO  
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## PART 1: INTRODUCTION

1.1 In accordance with section 3 of the Law Reform Act, Chap. 3:04, the Law Reform Commission (“the Commission”) received instructions from Senator the Honourable John Jeremie S.C., Attorney General of the Republic of Trinidad and Tobago, to undertake a comprehensive examination of Stand-Your-Ground (“SYG”) laws, in particular the model which exists in the American state of Florida and any other relevant statutes (domestic and foreign) which address self-defence options available to occupants of dwellings by which they can protect themselves from home invaders. This study takes place against the backdrop of a rash of home invasions across Trinidad and Tobago in recent years, some, tragically ending in the deaths of occupants at the hands of home invaders. The introduction of legislation to protect persons from this harrowing criminal activity is a priority of the Government.

1.2 Part 2 of this Policy Paper (“the Paper”) examines: the current situation in Trinidad and Tobago - the prevalence of certain crimes; constitutionally enshrined rights; and existing legislation in order to ascertain whether they adequately treat with home invasions. Following the national overview, Part 3 furnishes an explanation of the Castle Doctrine and SYG laws, which are the two main models, at common law and statute respectively, which offer legal protection to occupants of dwellings who are forced to defend themselves, others or property, and use force, even lethal force, against home invaders. A more in-depth examination of the SYG laws in Florida and other states in the United States (“the U.S.”) is contained in Part 4 of the Paper. In Part 5, home invasion and self-defence laws are examined in select Commonwealth jurisdictions, namely: England and Wales, Ireland, Canada and Australia. The Paper concludes with Part 6, which sets out draft legislation, a Bill intended treat with home invasion and allow for occupants’ self-defence in Trinidad and Tobago. Recommendations are also made with a view to having the Bill introduced to the Parliament.

## PART 2: TRINIDAD AND TOBAGO - THE CURRENT SITUATION

2.1 Home invasions in which occupants are traumatised, attacked and in worst case scenarios, killed by invaders, are of great concern to the populace. Calls have grown for laws which would allow occupants to defend themselves, those in their company and their property from the onslaught of home invaders.

2.2 The people of Trinidad and Tobago enjoy the protection of certain fundamental human rights and freedoms. The rights enshrined under the Constitution of the Republic of Trinidad and Tobago, Chap. 1:01 (“the Constitution”) are enumerated in section 4, which states that:

It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by the due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) the right of the individual to respect for his private and family life
- (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions ....

It is submitted that the act of home invasion violates the fundamental human rights and freedoms enumerated above.

2.3 It should be noted that apart from the rights enshrined in the Constitution, Trinidad and Tobago has laws which allow for self-defence and provide for the crimes of manslaughter, trespass, robbery, burglary and housebreaking; these include:

- The Offences Against the Person Act, Chap. 11:08 - section 7 provides for ‘Excusable homicide’ and states that “No punishment shall be incurred by any person who kills another person by misfortune or in his own defence, or in any other manner without criminality”.

- The Criminal Law Act, Chap. 10:04 - section 4(1) permits a person to use such force as is reasonable in the circumstances *inter alia* in the prevention of crime.
- The Trespass Act, Chap. 11:07 – prohibits the act of trespass as well as forcible entry and forcible detainer, it also provides for the setting of “spring-guns and man-traps” from sunset to sunrise in order to protect dwelling houses. This Act however does not expressly address the elements involved in home invasion.
- The Larceny Act, Chap. 11:12 – provides for the crimes of *inter alia*: larceny in dwelling houses; robbery; burglary; housebreaking and committing an arrestable offence; housebreaking with intent to commit an arrestable offence; and being found by night armed or in possession of housebreaking implements. Although a number of crimes are covered under this Act, the peculiar elements of home invasion are not, in particular, express provision for self-defence on the part of the occupant.

2.4 At present the country has no dedicated law dealing with home invasion. As seen in the figures below from the Trinidad and Tobago Police Service (“TTPS”) for the years 2023 and 2024, home invasion is not included as a discrete crime. Victims who lost their lives as a result of attacks by home invaders are likely included under the category of “Murders”.

#### **Total Crime by Offence – Comparative Report**

<b>Reported Crimes</b>	<b>2023</b>	<b>2024</b>
Robberies	2613	2399
Burglaries and Breakings	1677	1613
Larceny Dwelling House	120	112
Murders	577	625

Source: Trinidad and Tobago Police Service<sup>1</sup>

2.5 The Commission notes that some have linked two Government proposals, namely, enabling more eligible applicants to be granted Firearms User’s Licences (“FULs”) in accordance with the provisions of the Firearms Act, Chap. 16:01; and the introduction of SYG legislation. From these two proposals it can be deduced that an increased number of people will likely be

<sup>1</sup> <[www.ttps.gov.tt](http://www.ttps.gov.tt)> accessed 19 June 2025.

applying for FULs in order to protect themselves, others and their property from home invaders. Although the grant of FULs and the use of firearms<sup>2</sup> are not the focus of this Paper, the Commission acknowledges the connection between the two proposals and supports suggested measures such as: extensive mandatory training for FUL holders; re-certification; limiting the number of firearms per FUL holder; and the inspection of dwelling houses to ensure proper storage of firearms.

2.6 Trinidad and Tobago has reached a juncture where the introduction of specific legislation to enable people to defend themselves from home invaders is necessary. In the following Parts of this Paper, the Commission will explore options, with a view to preparing draft legislation which best suits the needs of the population and can be successfully enforced.

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<sup>2</sup> There have been a few erroneous mentions of citizens' "rights" to have and use firearms in Trinidad and Tobago. It should be noted that unlike the Second Amendment to the U.S. Constitution which protects the right of individuals in America to keep and bear arms, no such right is enshrined under the Constitution of the Republic of Trinidad and Tobago or provided for in any domestic legislation.

## PART 3: THE CASTLE DOCTRINE AND STAND-YOUR-GROUND LAWS

### 3.1 The Castle Doctrine and SYG laws have been described as:

“affirmative defenses for individuals charged with criminal homicide. The Castle Doctrine is a common law doctrine stating that an individual has no duty to retreat when in his or her home, or “castle,” and may use reasonable force, including deadly force, to defend his or her property, person, or another. Outside of the “castle,” however, an individual has a duty to retreat, if able to do so, before using reasonable force. Stand-your-ground laws, by comparison, remove the common law requirement to retreat outside of one’s “castle,” allowing an individual to use force in self-defense when there is reasonable belief of a threat. Deadly force is reasonable under stand-your-ground laws in certain circumstances, such as imminent great bodily harm or death.”<sup>3</sup>

### 3.2 The Castle Doctrine has its origins in 17<sup>th</sup> century English common law. As stated in **Semayne’s Case**<sup>4</sup>, a man was permitted to use lethal force if attacked in his home on the premise that:

“the house of every one is his castle ... although the life of man is a thing precious and favoured in law ... if thieves come to a man’s house to rob him, or murder, and the owner or his servants kill any of the thieves in defence of himself and his house, it is not a felony”.<sup>5</sup>

Semayne’s Case however did not extend this principle to public spaces, where, under traditional common law there often remained a duty to retreat, if safe to do so, before using deadly force.

### 3.3 In the U.S., the jurisprudence for the SYG class of self-defence is based primarily upon a series of judgments from the 19<sup>th</sup> century. At that time, American courts departed from the English common law principle of a duty to retreat in public places. By the early 20<sup>th</sup> century the U.S. Supreme Court decision in the case of **Brown v. United States**<sup>6</sup> represented a departure from strict

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<sup>3</sup> The Castle Doctrine and Stand-Your-Ground Law, M. Randall and H. DeBoer OLR Research Report April 24, 2012.

<sup>4</sup> (1604) 77 ER 194.

<sup>5</sup> *ibid* 195.

<sup>6</sup> 256 U.S. 335(1921).

adherence to the English common law<sup>7</sup> duty to retreat in places outside the home. The Castle Doctrine was therefore extended from a person's home to any place where he has "a right to be". Places where a person has "a right to be" in jurisdictions such as Florida now include: businesses<sup>8</sup>, including shops and restaurants; inside one's vehicle; and streets, parks and parking lots. Over the last century, with judicial decisions and legal codification, SYG laws in the U.S. have expanded to a point where, in certain circumstances, an individual is entitled to use any force, including lethal force, based on a reasonable perception of threat, to defend himself against imminent threat from another with no obligation to attempt escape or de-escalation.

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<sup>7</sup> Other relevant cases include: *Beard v. United States*, 158 U.S. 550, "affirmed the right to self-defense without the obligation to retreat when the individual is on their own property or a place where they have a right to be". *Allen v. United States*, 150 U.S. 551: "supported the notion that an individual is justified in using force to defend oneself without retreating, particularly when on one's own premises". *Rowe v. United States*, 164 U.S. 546: "reinforced the principle that the duty to retreat does not apply when the individual is in a place where they are lawfully present".

<sup>8</sup> *State v Smith* 376 So. 2d 261 (Fla. DCA 1979).



## PART 4: STAND-YOUR-GROUND LAWS IN FLORIDA AND OTHER U.S. STATES

### Florida: The first State to pass Stand-Your-Ground Legislation

4.1 Prior to 2005, unless a person in Florida was “attacked in his home by a person not having an equal right to be there,” he had a duty to “retreat to the wall” if he could do so in absolute safety; this position was in keeping with the position regarding self-defence in the home under the common law Castle Doctrine. Via its Protection of Persons Bill 2005 (“the 2005 Statute”), Florida became the first U.S. state to codify the abovementioned case of **Brown**.<sup>9</sup> The 2005 Statute expressly amended Chapter 776 of the Florida Statutes, introducing SYG laws which expanded the right to use deadly force under certain conditions, such as: a person is not the initial aggressor, not engaged in an unlawful activity, and is in a place where he has a right to be.<sup>10</sup> When these conditions are met, a person is allowed to:

Stand his ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.<sup>11</sup>

Immunity from prosecution or civil suit for the use of deadly force in self-defence was also extended to beyond actions which took place in the home.<sup>12</sup>

4.2 Florida’s Chapter 776 was further amended after 2005, with presumptions in favour of the accused regarding “reasonable fear” when the accused claims defensive force within a dwelling.<sup>13</sup> An expansive definition is attached to “dwelling” which includes occupied motor vehicles.<sup>14</sup> Of Florida’s SYG law, Weisbord notes: “For police to arrest a person for using or threatening to use

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<sup>9</sup> Supra Note 6. Headley, Andrea and Alkadry, Mohamad G. (2016) “The Fight or Flight Response: A Look at Stand Your Ground,” *Ralph Bunche Journal of Public Affairs*: Vol. 5: Iss. 1, Article 3 <<http://digitalscholarship.tsu.edu/rbjpa/vol5/iss1/3>>.

<sup>10</sup> FLA. STAT. 2005 Chapter 776.032 and 776.041.

<sup>11</sup> *ibid* Chapter 776.013(3).

<sup>12</sup> See FLA. STAT. Chapter 776.032 (2013). This statutory provision has been described as “especially broad” *see* - Ahmad Abuznaid et al, “Stand Your Ground” Laws: International Human Rights Law Implications’ [2014] Vol. 681:129 University of Miami Law Review <[lawreview.law.miami.edu](http://lawreview.law.miami.edu)> accessed 10 June 2025.

<sup>13</sup> FLA. STAT. [2017] Chapter 776.013(2)(a) (2017).

<sup>14</sup> FLA. STAT Chapter 776.013(2)(a), 776.013(5)(a). *See*: Noah Weisbord, ‘Who’s Afraid of the Lucky Moose? Canada’s Dangerous Self-Defence Innovation’ (2018) 64:2 McGill LJ 349.

force, there must be probable cause that the force used or threatened was unlawful – that is, the person was not lawfully standing their ground”.<sup>15</sup>

4.3 As of 2025, the Florida Legislature is one of more than 30 state legislatures to pass SYG laws in the U.S. Most states adopted the Florida model, in some cases with variations.<sup>16</sup> In 8 states, the SYG defence is premised on decisions of the appellate courts.<sup>17</sup> The SYG defence however is not universally applied in the US, as 11 states do not generally require individuals to retreat, instead they enforce the Castle Doctrine or necessity defence.<sup>18</sup>

### Pre-trial Immunity Hearing in Florida

4.4 Another feature of Chapter 776 is the criminal procedure for addressing SYG immunity claims. In summary, an accused is entitled to immunity from prosecution where he defended himself, another or his property against an intruder during a home invasion. In such cases, the accused is entitled to file a motion to dismiss the charges against him before his case goes to trial. The procedure is known as a pre-trial immunity hearing. During this hearing, the accused can claim that his actions were justified under the relevant SYG provisions. In doing so, he must present evidence demonstrating that he reasonably believed deadly force was necessary to prevent imminent death or great bodily harm.

4.4.1 The pre-trial immunity hearing is held before a judge, who will determine whether the accused was justified in using force. The burden of proof is then on the prosecution to prove, by clear and convincing evidence, that the defendant did not act in self-defence.

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<sup>15</sup> *ibid* Chapter 776.032.

<sup>16</sup> According to the National Conference of State Legislatures, the other states are Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah and West Virginia Wyoming. The SYG law is also exists in Puerto Rico.

<sup>17</sup> California, Colorado, Illinois, New Mexico, Oregon, Vermont, Virginia and Washington.

<sup>18</sup> Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York and Rhode Island.

4.4.2 If a judge finds that the SYG defence is valid, the charges will be dismissed and the accused will be deemed immune from criminal prosecution and civil liability and not have to face trial or further prosecution.

4.4.3 If a judge denies an immunity claim and the case goes to trial, the accused can still rely on a SYG defence. Counsel for the defendant may present evidence and arguments to show that he acted in self-defence based on a reasonable belief of imminent danger.

### Arguments for and against Stand-Your-Ground laws in the U.S.

4.5 Since the codification of SYG laws in the U.S., there has been no dearth of studies, articles and commentaries about this particular form of self-defence; it has vocal advocates and critics. Furnished hereunder is an overview of the arguments for and against SYG laws.

4.6 Arguments in favour of SYG laws, include:

- SYG laws are meant to clarify and simplify the legal boundaries of self-defence, providing clear legal guidelines and potentially reducing ambiguity in assessing the appropriateness of self-defence actions.
- The statutory provisions remove the requirement to retreat before using force in self-defence, thereby allowing individuals to defend themselves immediately against threats without hesitation.
- Individuals can respond to threats without the fear of being prosecuted and convicted for their actions.
- SYG laws are intended to provide a sense of security and protection for individuals, particularly those who may be vulnerable to violence.
- Given that the decision to use lethal force is made in a split-second at high-stress moments, SYG laws provide a person who was in that unenviable position with additional legal leeway.

- The existence of SYG laws acts as a deterrent to would-be aggressors from committing crime, especially if they know that their potential victims need not retreat and are empowered to use force, up to and including lethal force, against them.
- The deterrent nature of SYG laws can possibly reduce crime rates.

#### 4.7 Arguments against SYG laws, include:

- Under the U.S.s' SYG laws, including those in Florida, a person who has harmed or killed another in a public place can presumptively claim self-defence to avoid prosecution or reduce the likelihood of a conviction.<sup>19</sup> In so doing, police must accept the claim's validity, limiting their ability to investigate. Thus, the individual need only assert the *belief* that the use of force was necessary to prevent serious harm or death – that, according to Florida law, the person “reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another”.<sup>20</sup> Coupled with this option which is available to a defendant, is special legal protection granting the person “immunity from criminal prosecution and civil action”. Prosecution is still possible, but much more difficult to do successfully.<sup>21</sup> This is partly because the burden of proof shifts to those challenging the SYG claim, meaning that the State has to prove that the self-defence claim is not legitimate.<sup>22</sup>
- A SYG defendant in Florida can request a special pre-trial immunity hearing. If the defendant can demonstrate through a “preponderance of evidence” that he acted lawfully under the SYG standard, he will be granted immunity and no criminal trial is held. This pretrial hearing has been described as “notable” for two reasons: first, it is a lower standard than the “beyond a reasonable doubt” standard applied in criminal cases; and second, it is a unique option that is not available in other proceedings.<sup>23</sup>
- Law enforcement authorities can be confronted with competing SYG claims in the aftermath of a violent confrontation where both individuals survive the encounter. The law

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<sup>19</sup> Robert J. Spitzer, ‘Stand-You-Ground, the Castle Doctrine, and Public Safety’ (Rockefeller Institute, State University of New York (SUNY), 3 May 2023) <[rockinst.org/blog/stand-your-ground-the-castle-doctrine-and-public-safety/](https://rockinst.org/blog/stand-your-ground-the-castle-doctrine-and-public-safety/)> accessed 16 June 2025.

<sup>20</sup> *ibid.*

<sup>21</sup> *ibid.*

<sup>22</sup> *ibid.*

<sup>23</sup> *ibid.*

does not specifically provide for such situations. If, however, only one person survives, no competing SYG claim can be offered. It is for this reason, in particular, that SYG laws have been labeled “shoot first”, since only a survivor can make a SYG claim, whereas contradictory claims by two surviving opponents “muddy the waters”.<sup>24</sup> Stand-Your-Ground laws have been labeled “shoot first ask later”, as only a survivor in the situation can lawfully claim the defence.<sup>25</sup>

- The intended deterrence effect was not proved. Individuals were found to be undeterred from committing crimes even though their victims had lethal means to defend themselves.<sup>26</sup>
- SYG laws contribute to vigilantism, escalated violence and “low-cost licence to kill”.<sup>27</sup>
- The SYG defence is incompatible with international human rights – The United Nations Human Rights Committee in its review of SYG laws in the United States notes that such laws counter the right to life<sup>28</sup> by “potentially undermining the principles of necessity and proportionality when using deadly force in self-defense”. Other rights that are affected by the SYG laws are equal protection, non-discrimination, freedom of movement, due process and access to the courts, and the rights to family and the best interest of the child. The violence associated with the act of standing one’s ground “creates negative psychological and mental harm for direct and indirect victims and destructive developmental consequences for children, and has fostered a general climate of fear that interferes with the enjoyment of fundamental human rights”.

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<sup>24</sup> *ibid.*

<sup>25</sup> Law professor Mary Anne Franks asserts that SYG is “essentially stacking the deck repeatedly in favor of people shooting other people”. Mary Anne Franks, *How Stand-Your-Ground Laws Hijacked Self-Defense*, 3 Guns and Contemporary Society: The Past, Present, and Future of Firearms and Firearm Policy (2016).

<sup>26</sup> Cheng, C., & Hoekstra, M. (2012). Does strengthening self-defense law deter crime or escalate violence? Evidence from castle doctrine. *National Bureau of Economic Research* <https://doi.org/10.3386/w18134> Mark Gius, The relationship between stand-your-ground laws and crime: A state-level analysis, *The Social Science Journal*, Volume 53, Issue 3, 2016 citing Cheng, *infra*.

<sup>27</sup> The American gun control organization Everytown for Gun Safety claims these laws promote “armed vigilantism” and “[t]hey encourage the escalation of violence in avoidable situations” (Everytown for Gun Safety, 2019). The Southern Poverty Law Center (SLPC), in a joint report with the Giffords Law Center to Prevent Gun Violence, argues these laws “justify murderous vigilantism” because these laws “remove the traditional obligation to de-escalate a confrontation and avoid using lethal force in public by stepping away (or “retreating”) when it is safe to do so”.

<sup>28</sup> United Nations (2014) Concluding observations of the Human Rights Committee, United States of America, U.N. Doc. CCPR/C/USA/CO/4 (2014).  
[http://hrlibrary.umn.edu/hrcommittee/usa2014.html#:~:text=While%20acknowledging%20the%20measures%20taken,2%2C%206%20and%2026\).&text=\(b\)%20R%20review%20the%20Stand,force%20in%20self%2D%20defen%20%20e%20](http://hrlibrary.umn.edu/hrcommittee/usa2014.html#:~:text=While%20acknowledging%20the%20measures%20taken,2%2C%206%20and%2026).&text=(b)%20R%20review%20the%20Stand,force%20in%20self%2D%20defen%20%20e%20)

4.8 This Part of the Paper ends with the findings of a 2022 study entitled **Analysis of “Stand Your Ground” Self-defense Laws and Statewide Rates of Homicides and Firearm Homicides**<sup>29</sup> (the 2022 Study”). The 2022 Study estimates that expanded legal protections for individuals who use deadly violence in self-defence result in an additional 700 homicides each year – an increase in monthly homicide rates of 11% nationally, but up to 28% in some states.<sup>30</sup> According to the 2022 Study, the enactment of SYG laws led to an overall increase in homicide and firearm homicide across the US. While impacts vary from state to state, no state saw reductions in homicide following the introduction of SYG law, and southern states, including Alabama, Florida, Georgia and Louisiana, saw particularly large increases.

4.8.1 According to the research team which conducted the 2022 Study, the accumulation of evidence suggests the expansion of self-defence laws in public places may escalate violence and result in unnecessary loss of life.

4.8.2 The paper prepared by the research team states that:

Advocates claim that SYG laws enhance public safety by deterring predatory crime through an increased threat of retaliatory violence. Critics ... argue that the laws are unnecessary, and may threaten public safety by emboldening the use of deadly violence .... There are also concerns that the laws exacerbate social inequalities in violent victimization since implicit and explicit biases of threat perception discriminate against and cause disproportionate harms among minority groups.

4.8.3 According to the 2022 Study, supporters argue that introducing SYG laws will improve public safety by deterring criminals, but the research team’s findings indicate the opposite.

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<sup>29</sup> M. Esposti, D. Wiebe, A. Gasparrini and D. Humphreys – research team from the University of Oxford, University of Pennsylvania and London School of Hygiene and Tropical Medicine study published in Journal of American Medical Association (JAMA) Network Open – <[jamanetwork.com](https://jamanetwork.com)>.

<sup>30</sup> ‘US Stand Your Ground laws are associated with 700 additional homicides every year’ provides an overview of the 2022 Study at Note 26 above (University of Oxford, 23 February 2022) <[www.ox.ac.uk](https://www.ox.ac.uk)> accessed 16 June 2025.

4.8.4 The research team examined the impacts of SYG laws in 23 states between 2000 and 2016. According to the research, they were associated with 8% to 11% national increases in homicide and firearm homicide rates. Florida saw the highest increase with a 28% monthly rise in homicides. Although the biggest increases were in the southern states, no states showed reductions in homicides or firearm homicides following the introduction of the laws. The laws affect all individuals, irrespective of race, sex, or age.

## PART 5: EXAMINATION OF HOME INVASION AND SELF-DEFENCE LAWS IN SELECT COMMONWEALTH JURISDICTIONS

5.1 Having looked at the American application of SYG laws, this Part of the Paper examines the various legislative positions regarding self-defence and home invasion in the jurisdictions of England and Wales, Ireland, Canada and Australia, all of which, like Trinidad and Tobago, share a tradition rooted in the English common law and statutes.

### England and Wales

5.2 For more than fifty years, legislation treating with self-defence in England and Wales has been amended for purposes of clarity; to address societal changes; and to ensure that people have the protection that they need when they defend themselves against intruders.<sup>31</sup>

5.3 The Criminal Law Act 1967 -This Act *inter alia* repealed the common law rules on self-defence in English law, such as the duty to retreat; the change required that any force used must be “reasonable in the circumstances”. Section 3(1) provides that: “A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large”. Section 3(2) clarifies the preceding subsection by expressly providing that: “Subsection (1) ... shall replace the rules of the common law on the question when force used for a purpose mentioned in the subsection is justified by that purpose”.

5.4 The Criminal Justice and Immigration Act 2008 - Section 76 of the Criminal Justice and Immigration Act 2008 (“the 2008 Act”) codified the common law on the subject of self-defence, making express legislative provision for the use of reasonable force for the purpose of self-defence. Persons are permitted to defend themselves or others, to prevent crime or to protect property using force that was reasonable in the circumstances as they believed them to be. What constitutes “reasonable force” is decided by the courts on a case-by-case basis.

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<sup>31</sup> Crime and Courts Bill – Fact Sheet: Use of force in self-defence. <http://assets.publishing.service.gov.uk> accessed 10 June 2025.



5.5 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 - The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”) sought to further clarify the use of force in self-defence; section 148 of this Act amended section 76 of the 2008 Act, providing that:

- the use of reasonable force in the 2008 Act applies equally to cases in which persons use reasonable force to defend property, themselves, other people or preventing crime; and
- a person is not under a duty to retreat from an offender when acting in self-defence, defence of others, defence of property or to prevent crime. However, if a person had a chance to retreat, the court will take that into account when considering whether the force used was reasonable in the circumstances as the person believed them to be.

5.6 As of 2012 therefore, the law permitted a person to protect himself or others using force that was reasonable in the circumstances as he saw them. The use of disproportionate force in those circumstances would not be reasonable however, and the householder could be arrested and prosecuted.

5.7 The then Government was of the view that a householder confronted by a burglar in his home and acting in fear for his safety in the heat of the moment could not always be expected to assess exactly how much force might be required. It might be that the level of force he used in the heat of the moment was reasonable in the circumstances as he saw them, but was actually disproportionate when viewed after the fact. The Government wished to ensure that a householder who found himself in that situation was not treated as a criminal; the passage of the Crime and Courts Act 2013 (“the 2013 Act”) was meant to address these issues.<sup>32</sup>

5.8 The Crime and Courts Act 2013 - Section 43 of the 2013 Act amended section 76 of the 2008 Act. The 2013 Act amended the law relating to self-defence as a defence to a criminal charge by introducing a legislative provision, the so-called “householder defence”. The (new) section

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<sup>32</sup> *ibid.*

76(5A) of the 2008 Act allowed for force which was not reasonable to be used against an intruder/burglar in defence of a person's home, once the force was not "grossly disproportionate".

5.8.1 In addition to the focus on cases of householder defence, the provisions of the 2013 Act also extended to shopkeepers and armed forces personnel who live and work in the same premises.

5.8.2 The provisions of the 2013 Act do not however, cover other scenarios where the use of force might be required, for example, when people are defending themselves from attack on the street, preventing crime or protecting property - the existing law on the use of reasonable force continues to apply in these situations.

5.9 A Joint Public Statement from the Crown Prosecution Service and the National Police Chiefs' Council on the subject of **Householders and the use of force against intruders**<sup>33</sup> summarises the current situation in the United Kingdom when a person encounters an intruder in his home; the statement includes the following guidance:

Reasonable force - Anyone can use reasonable force to protect themselves or others, or to carry out an arrest or to prevent crime. A person is not expected "to make fine judgments" over the level of force used in the heat of the moment. As long as he only did what he honestly and instinctively believed was necessary in the heat of the moment, that would be the strongest evidence that he acted lawfully and in self-defence. This is still the case if a person used "something to hand as a weapon". As a general rule, the more extreme the circumstances and the fear felt, the more force a person can lawfully use in self-defence.

Disproportionate force – The force a person used must always be reasonable in the circumstances as he believed them to be. Where a person was defending himself or others from intruders in his home it might still be reasonable in the circumstances for him to have used a degree of force that

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<sup>33</sup> Revised in 2018 [www.cps.gov.uk](http://www.cps.gov.uk) accessed 10 June 2025.

is subsequently considered to be disproportionate. Perhaps if the householder was acting in extreme circumstances in the heat of the moment and did not have a chance to think about exactly how much force would be necessary to repel the intruder, it might seem reasonable to the householder at the time but with hindsight, his actions might seem disproportionate. In the United Kingdom the law will give the homeowner the benefit of the doubt in these circumstances.

It should be noted that this only applies if the householder was acting in self-defence or to protect others in his home, and the force used was disproportionate. Disproportionate force to protect property is still unlawful in the United Kingdom.<sup>34</sup>

Grossly disproportionate force - If a person's action was 'over the top' or a calculated action of revenge or retribution for example, this might amount to grossly disproportionate force for which the law offers no protection. If, for example, a householder knocked an intruder unconscious and then proceeded to kick and punch the person repeatedly, such an action would be more likely to be considered grossly disproportionate.

Does the homeowner have to wait to be attacked - If a person is in his own home and in fear for himself or others, he does not have to wait to be attacked. In those circumstances the law does not require the householder to wait to be attacked before he uses defensive force.

Death of an intruder - If a householder acted in reasonable self-defence and the intruder dies he would still have acted lawfully. However, if, for example:

- having knocked an intruder unconscious, the householder then decided to further hurt or kill the person to punish them; or
- a householder knew of an intended intruder and set a trap to hurt or to kill the person rather than involve the police,

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<sup>34</sup> ibid.

the householder would be acting with very excessive and gratuitous force and could be prosecuted.

Pursuit of a fleeing intruder - Pursuit of a fleeing intruder by a householder is no longer regarded as acting in self-defence and so the same degree of force may not be reasonable. The householder is however still allowed to use reasonable force to recover his property and make a citizen's arrest. Acting out of malice and revenge with the intent of inflicting punishment through injury or death would not be regarded as reasonable.

The Joint Public Statement concludes as follows: "It is a fact that very few householders have ever been prosecuted for actions resulting from the use of force".

## Ireland

5.10 The Criminal Law (Defence and the Dwelling) Act 2011 - The passage of the Criminal Law (Defence and the Dwelling) Act 2011 ("the 2011 Act") in Ireland was in response to the case of **DPP v Pádraig Nally**.<sup>35</sup> The objective of the 2011 Act was to provide clarification on defence of the home. The 2011 Act expressly enshrines the Castle Doctrine into Irish law.

With respect to self-defence on the part of a householder, the 2011 Act provides *inter alia* that:

- it is not an offence for a person in their dwelling or who is a lawful occupant in a dwelling, to use force in order to protect themselves or their property where they believe that the other person is trespassing and means to commit a crime: section 2 – Justifiable use of force;
- in accordance with the Castle Doctrine, a person is allowed to stand their ground and that nothing in the Act can compel them to abandon their dwelling: section 3 – No obligation to retreat from the dwelling; and
- a person who uses force, in accordance with the Act to repel a trespasser, will be absolved of liability in tort arising from his actions: section 5 – Civil liability.

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<sup>35</sup> [2006] IECCA 128. This case engaged national attention in Ireland; the defendant, a farmer, was found guilty of manslaughter for shooting and killing a trespasser on his land; he was sentenced to six years' imprisonment. Following a retrial, the defendant's conviction was quashed and he was found not guilty of manslaughter.

5.11 Thus, under the 2011 Act, a householder is entitled to use force, up to and including lethal force, such as he believes is reasonable for protection. The householder may be mistaken as to the circumstances, but if his belief is honestly held, he will enjoy the protection of the Act. It will be up to a court or jury to decide whether the occupier's belief was honestly held. It should be noted however that the 2011 Act does not define what is meant by "reasonable force".

5.12 Despite the intent of the 2011 Act to provide clarity on the matter of self-defence, one Irish legal scholar lamented the absence in the relevant Bill of factors for assessing reasonableness, submitting that express inclusion of these factors in the Act would aid juries who face the taxing task of retrospectively assessing the subjective intentions and state of mind of homeowners who kill intruders.<sup>36</sup> The (final) 2011 Act makes no provision regarding factors for assessing reasonableness.

## Canada

5.13 The Criminal Code - Like the jurisdictions examined above, legislation providing for the defence of person and property also exists in Canada, by way of its Criminal Code. Under sections 34 and 35 of the Criminal Code of Canada, persons are entitled to safeguard themselves, others and their property, once their defensive actions are reasonable and proportional to the circumstances. Inflicting injury on an intruder or the use of lethal force is only justified however when it is the only available option for self-defence against a perceived threat of severe bodily harm or loss of life.<sup>37</sup> Any actions taken beyond what is deemed reasonable and necessary are prohibited. Canadians therefore have the right to use force to protect their homes and themselves, but only to the extent that is reasonable and necessary.<sup>38</sup>

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<sup>36</sup> Sinead Ring, 'The Criminal Law (Defence and the Dwelling) Bill 2010' (Human Rights, 20 July 2010) <https://web.archive.org/web/20110408060648/> accessed 5 June 2025.

<sup>37</sup> Michael Oykman, 'Self-Defence Laws in Canada' (12 November 2024) [www.strategiccriminaldefence.com](http://www.strategiccriminaldefence.com) accessed 9 June 2025.

<sup>38</sup> *ibid.*

5.14 It should be noted that the Criminal Code contains a provision which is absent from England and Ireland's respective self-defence laws, namely, the express provision of a non-exhaustive list of factors which assists in determining whether the accused's act was reasonable in the circumstances. The factors are provided for in section 34(2) which reads as follows:

In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the person's role in the incident<sup>39</sup>;
- (d) whether any party to the incident used or threatened to use a weapon;
- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
- (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to a use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.

It is submitted that the inclusion of the list of factors in section 34(2) of the Criminal Code is a useful aid for the finder of fact and thus avoids the lacuna in the Irish statute mentioned at paragraph 5.12 above.

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<sup>39</sup> *ibid.* This factor is not solely an objective test and the trier of facts must consider how the accused perceived the relevant facts and whether that perception was reasonable: *R v Khill* [2021] 2 SCR 948.

## Australia

5.15 Under Australia's federal structure, the statutory provisions governing self-defence and defence of home vary from state to state. While some states such as Western Australia, Queensland and South Australia have home invasion legislation, other states such as New South Wales make provision for excessive self-defence. The relevant legislative provisions in the states of Western Australia and New South Wales are examined below.

5.16 Western Australia - The law relating to self-defence is codified in section 248 of the Criminal Code<sup>40</sup>. It provides that a harmful act done by a person is lawful if it is done in self-defence. Self-defence is further defined under section 248(4) as a where the person believes the act is necessary to defend the person from a harmful act even though it may not be imminent, it is a reasonable response to the circumstances as the person believes them to be and there are reasonable grounds for those beliefs. Section 248(3) also provides for a partial defence to murder by reducing it to manslaughter where excessive self-defence is used, namely that although the act was done in self-defence it was not a reasonable response by the person in the circumstances as the person believed them to be.

5.16.1 Further, in 2000 the defence of home invasion was created under section 244. It allows an occupant of a dwelling to use any force or do anything on reasonable grounds to be necessary to prevent a home invader from entering the dwelling or an associated place. The defence extends to an 'associated place' once it is a place that is used exclusively in connection with the occupation of the dwelling and is a place that occupants of the dwelling use in common. It also provides for the occupant to be able to defend against violence used or threatened by a home invader. It is not lawful however, for the occupant to use force that is intended or likely to cause death to the home invader unless the occupant believes on reasonable grounds that violence is being, or is likely to be, used or is threatened by the home invader. The section also defines 'home invader' as a person

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<sup>40</sup> [Criminal Code Act Compilation Act 1913 - \[19-am0-00\].pdf](#)

that the occupant reasonably believes intends to commit an offence or is committing or has committed an offence in the dwelling or associated place.

5.17 New South Wales - In 2001, the law of self-defence was codified in the Crimes Act 1900.<sup>41</sup> It is now set out in section 418 and states that a person will not be criminally responsible for an offence if his conduct constitutes self-defence. Self-defence can only be relied on if the person believes that the conduct is necessary to defend himself or another person, to prevent the unlawful deprivation of his or another's liberty, to protect property or to prevent criminal trespass and that the conduct is a reasonable response in the circumstances as the person perceives them to be. Section 419 states that the prosecution has the onus of proving, beyond a reasonable doubt, that the person did not carry out the conduct in self-defence.

5.17.1 The case of **R v Katarzynski**<sup>42</sup> is especially instructive on the implementation of the above sections. In the judgment of Howie J, the sections were considered as follows:

22 The questions to be asked by the jury under s 418 are: (i) is there is a reasonable possibility that the accused believed that his or her conduct was necessary in order to defend himself or herself; and, (2) if there is, is there also a reasonable possibility that what the accused did was a reasonable response to the circumstances as he or she perceived them.

23 The first issue is determined from a completely subjective point of view considering all the personal characteristics of the accused at the time he or she carried out the conduct. The second issue is determined by an entirely objective assessment of the proportionality of the accused's response to the situation the accused subjectively believed he or she faced. The Crown will negative self-defence if it proves beyond reasonable doubt either (i) that the accused did not genuinely believe that it was necessary to act as he or she did in his or her own defence or (ii) that what the accused did was not a reasonable response to the danger, as he or she perceived it to be.

5.17.2 Section 420 also provides that self-defence is not available if the person uses force that involves the intentional or reckless infliction of death if that force was used only to protect property

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<sup>41</sup> [Crimes Act 1900 No 40 - NSW Legislation](#)

<sup>42</sup> [2002] NSWSC 613.



or to prevent criminal trespass. Section 421 goes further and provides for the scenario where excessive force is used but such force was not a reasonable response in the circumstances as perceived by the person. In this case even though the person believes that their conduct was necessary to defend themselves or another, the person is not criminally responsible for murder, but instead for manslaughter.

## PART 6: HOME INVASION AND SELF-DEFENCE LEGISLATION FOR TRINIDAD AND TOBAGO - CONCLUSION AND RECOMMENDATIONS

6.1 This Paper has examined criminal activity in Trinidad and Tobago, in particular the prevalence of home invasions; existing domestic legislation; legal self-defence options available to occupants in their homes under the Castle Doctrine and SYG laws; the SYG model in force in Florida and other U.S. states; and the home invasion and self-defence laws in a number of Commonwealth jurisdictions. The Commission has given careful consideration to the abovementioned matters, and has prepared dedicated draft legislation for Trinidad and Tobago entitled **The Home Invasion (Self-Defence and Defence of Property) Bill, 2025** (“the Bill”) to criminalise the act of home invasion and to give the occupants of dwellings the ability to lawfully defend themselves, others and their property. Cognisant of this country’s multi-ethnic composition and socio-economic realities, the Bill aims to achieve clarity and uphold proportionality and fairness for all would-be users.

### The Home Invasion (Self-Defence and Defence of Property) Bill, 2025

The Bill is attached as **Appendix A** and a summary of its main provisions is set out hereunder.

6.2 The Bill seeks to establish the offence of home invasion and, in that context, to provide that a person has no duty to retreat when operating in self-defence or defence of his property; to provide that a person may use defensive force, including deadly force, to protect himself or his property; and for other related matters.

6.2.1 Clause 2: Act inconsistent with Constitution - The Bill’s provisions would have effect even though inconsistent with sections 4 and 5 of the Constitution. The Bill would therefore require the support of three-fifths of all members of each House of Parliament.

6.2.2 Clause 5: Application of Act - The Bill would provide that an occupant in lawful possession of a dwelling house has no duty to retreat from a home invader and has the right to stand his ground and use defensive force in order to protect himself, his property or another person.

6.2.3 Clause 6: Home Invasion - The Bill would establish the offence of home invasion and set out the parameters of the offence. This would include the unlawful entry by a person, the home invader, into a dwelling house with the intent to use force, or threaten the imminent use of force, on occupants of the dwelling house. The offence of home invasion would also cater for instances in which a home invader intentionally causes any injury to occupants of a dwelling house including grievous bodily harm, grievous sexual assault, rape and death. A home invasion may involve a home invader stealing, damaging or destroying property in the dwelling house with or without the use of intimidation, threats or violence. Further, a home invasion may involve the use of a weapon, a firearm or an explosive device in order to cause grievous bodily harm, permanent disability, permanent disfigurement or death to any person in a dwelling house. Provision is also made for aggravating factors, where a home invasion is carried out by a member of a gang, a participant in an organised criminal activity, or in the presence of a child, senior citizen, differently-abled or vulnerable person.

6.2.4 Clause 7: Self-Defence - The Bill would provide that an occupant of a dwelling house has no duty to retreat from a home invader and has the right to stand his ground when acting in self-defence. This would arise in circumstances where the occupant believes, on reasonable grounds, that force was being used or threatened by the home invader, or that the occupant's life or that of another person was in immediate danger or threat of danger. Additionally, the occupant must also believe that his actions were necessary and reasonable to defend or protect himself, or another person, from the use or threat of force, and that the defensive force used was proportionate to the threat he honestly believed to exist. In determining whether the defensive force used was reasonable, there are several factors which the Court is required to take into account. This would include, *inter alia*, the nature of the force or threat; whether any party to the incident used or threatened to use a weapon, firearm or explosive device; the nature, duration and history of any relationship between the parties to the incident; the nature and proportionality of the occupant's response to the use or threat of force; and whether the occupant did what he honestly and instinctively thought was necessary for a legitimate purpose. For the purpose of self-defence during a home invasion, the use of deadly force may be justified where an occupant reasonably

believes such force is necessary to prevent imminent death, grievous bodily harm, grievous sexual assault or rape.

6.2.5 Clause 8: Defence of Property - The Bill would provide that an occupant of a dwelling house has no duty to retreat from a home invader and has the right to stand his ground when acting in defence of his property. This would arise in circumstances where the occupant uses or threatens to use force, or takes any other action he reasonably believes to be necessary, in order to prevent a home invader from entering his dwelling house; to cause a home invader to leave his dwelling house; to protect his property or that of another person from theft, damage or destruction by a home invader; or to prevent or stop a home invader from committing a serious criminal offence in the dwelling house. For the purpose of defence of property during a home invasion, the use of deadly force may be justified where an occupant reasonably believes that using or threatening to use such force is necessary to prevent or remove a home invader from the dwelling house, or to protect his property or that of another person.

6.2.6 As stated at sub-paragraph 6.2.1, the Bill's provisions would have effect even though inconsistent with sections 4 and 5 of the Constitution. The proposed provisions in Clauses 7 and 8 seek to justify the taking of life in specified circumstances and would therefore infringe upon the right to life as provided for in section 4 of the Constitution. A Note has been prepared which explains the treatment of provisions which infringe this country's fundamental human rights and freedoms and the requirement for support of three-fifths of all members of each House of Parliament. The Note is attached as **Appendix B**.

6.2.7 Clause 9: Person Assisting Occupant - The Bill would provide that a person who acts in good faith in aid of an occupant during a home invasion, or who acts on the direction of an occupant during a home invasion, may use the same degree of force against a home invader that an occupant may reasonably use.

6.2.8 Clause 10: Exceptions - The Bill would provide for instances in which an occupant of a dwelling house may not be able to rely on self-defence or defence of property where a home invasion has occurred. These exceptions include if a person against whom force is used or threatened has the right to be in, or is an occupant in the dwelling house; where the degree of force used by the occupant is grossly disproportionate; if the occupant who uses or threatens force is engaged in criminal activity or is using the dwelling house to further criminal activity; if the person against whom force is used or threatened is a member of a law enforcement authority acting in the lawful execution of his duties; if the occupant using or threatening the use of force knew or should have known that the person entering the dwelling house was a law enforcement officer acting in the lawful execution of his duties; or where the mental faculties of an occupant who uses force were, at the time of the alleged offence, substantially affected by the voluntary consumption of drugs.

## Recommendations

6.3 The Commission submits the following recommendations for consideration:

1. The Policy Paper and Bill be disseminated for public comment with a stipulated deadline date for receipt of any comments.
2. Consultation on the Policy Paper and Bill be conducted with stakeholders such as: the Ministry of Homeland Security / TTPS; the Judiciary; the Office of the Director of Public Prosecutions; the Legal Aid and Advisory Authority / Public Defenders' Department; the Forensic Science Centre; the Law Association of Trinidad and Tobago; the Criminal Bar Association; and representatives of the Firearms Industry (dealers, range owners etc.).
3. The Policy Paper and Bill be finalised upon completion of 1. and 2. above.
4. The Policy Paper and Bill be submitted for the approval of Cabinet with a view to the introduction of the Bill to Parliament.

The Law Reform Commission

July 03, 2025

## APPENDIX A

### **THE HOME INVASION (SELF-DEFENCE AND DEFENCE OF PROPERTY) BILL, 2025**

#### **Explanatory Note**

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to establish the offence of home invasion and, in that context, to provide that a person has no duty to retreat when operating in self-defence or defence of his property; to provide that a person may use defensive force, including deadly force, to protect himself or his property; and for other related matters.

The Bill contains ten clauses and its provisions would have effect even though inconsistent with sections 4 and 5 of the Constitution. The Bill would therefore require the support of three-fifths of all the members of each House of Parliament.

Clause 1 of the Bill would provide the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide that the Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 of the Bill would provide that the Act shall come into operation on such date as is fixed by the President by Proclamation.

Clause 4 of the Bill would provide for the interpretation of certain terms used in the Bill.

Clause 5 of the Bill would provide that an occupant in lawful possession of a dwelling house has no duty to retreat from a home invader and has the right to stand his ground and use defensive force in order to protect himself, his property or another person.

Clause 6 of the Bill would establish the offence of home invasion and set out the parameters of the offence. This would include the unlawful entry by a person, the home invader, into a dwelling house with the intent to use force, or threaten the imminent use of force, on occupants of the dwelling house. The offence of home invasion would also cater for instances in which a home invader intentionally causes any injury to occupants of a dwelling house including grievous bodily harm, grievous sexual assault, rape and death. A home invasion may involve a home invader stealing, damaging or destroying property in the dwelling house with or without the use of intimidation, threats or violence. Further, a home invasion may involve the use of a weapon, a firearm or an explosive device in order to cause grievous bodily harm, permanent disability, permanent disfigurement or death to any person in a dwelling house. Provision is also made for aggravating factors, where a home invasion is carried out by a member of a gang, a participant in an organised criminal activity, or in the presence of a child, senior citizen, differently-abled or vulnerable person.

Clause 7 of the Bill would provide that an occupant of a dwelling house has no duty to retreat from a home invader and has the right to stand his ground when acting in self-defence. This would arise in circumstances where the occupant believes, on reasonable grounds, that force was being used or threatened by the home invader, or that the occupant's life or that of another person was in immediate danger or threat of danger. Additionally, the occupant must also believe that his actions were necessary and reasonable to defend or protect himself, or another person, from the use or threat of force, and that the defensive force used was proportionate to the threat he honestly believed to exist. In determining whether the defensive force used was reasonable, there are several factors which the Court is required to take into account. This would include, *inter alia*, the nature of the force or threat; whether any party to the incident used or threatened to use a weapon, firearm or explosive device; the nature, duration and history of any relationship between the parties to the incident; the nature and proportionality of the occupant's response to the use or threat of force; and whether the occupant did what he honestly and instinctively thought was necessary for a legitimate purpose. For the purpose of self-defence during a home invasion, the use of deadly force may be justified where an occupant reasonably believes such force is necessary to prevent imminent death, grievous bodily harm, grievous sexual assault or rape.

Clause 8 of the Bill would provide that an occupant of a dwelling house has no duty to retreat from a home invader and has the right to stand his ground when acting in defence of his property. This would arise in circumstances where the occupant uses or threatens to use force, or takes any other action he reasonably believes to be necessary, in order to prevent a home invader from entering his dwelling house; to cause a home invader to leave his dwelling house; to protect his property or that of another person from theft, damage or destruction by a home invader; or to prevent or stop a home invader from committing a serious criminal offence in the dwelling house. For the purpose of defence of property during a home invasion, the use of deadly force may be justified where an occupant reasonably believes that using or threatening to use such force is necessary to prevent or remove a home invader from the dwelling house, or to protect his property or that of another person.

Clause 9 of the Bill would provide that a person who acts in good faith in aid of an occupant during a home invasion, or who acts on the direction of an occupant during a home invasion, may use the same degree of force against a home invader that an occupant may reasonably use.

Clause 10 of the Bill would provide for instances in which an occupant of a dwelling house may not be able to rely on self-defence or defence of property where a home invasion has occurred. These exceptions include if a person against whom force is used or threatened has the right to be in, or is an occupant in the dwelling house; where the degree of force used by the occupant is grossly disproportionate; if the occupant who uses or threatens force is engaged in criminal activity or is using the dwelling house to further criminal activity; if the person against whom force is used or threatened is a member of a law enforcement authority acting in the lawful execution of his duties; if the occupant using or threatening the use of force knew or should have known that the person entering the dwelling house was a law enforcement officer acting in the lawful execution of his duties; or where the mental faculties of an occupant who uses force were, at the time of the alleged offence, substantially affected by the voluntary consumption of drugs.

**THE HOME INVASION  
(SELF-DEFENCE AND DEFENCE OF PROPERTY) BILL, 2025**

**Arrangement of Clauses**

*Clause*

1. Short title
2. Act inconsistent with Constitution
3. Commencement
4. Interpretation
5. Application of Act
6. Home Invasion
7. Self-Defence
8. Defence of Property
9. Person assisting occupant
10. Exceptions



## **BILL**

AN ACT to establish the offence of home invasion and, in that context, to provide that a person has no duty to retreat when operating in self–defence or defence of his property; to provide that a person may use defensive force, including deadly force, to protect himself or his property; and for other related matters.

[ , 2025]

### Preamble

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three–fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

### Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

### Short title

**1.** This Act may be cited as the Home Invasion (Self–Defence and Defence of Property) Act, 2025.

### Act inconsistent with Constitution

**2.** This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

### Commencement

**3.** This Act shall come into operation on such date as is fixed by the President by Proclamation.

### Interpretation

**4.(1)** In this Act –

“associated place” means –

- (a) any place that is used exclusively in connection with, or for purposes ancillary to, the occupation of a dwelling house; or

- (b) any place, where a dwelling house is one of two or more dwelling houses in one building or group of buildings, that occupants of the dwelling houses use in common with each other;

“curtilage” in relation to a dwelling house means an area immediately surrounding or adjacent to the dwelling house, which is used in conjunction with the dwelling house regardless of whether the area –

- (a) is surrounded by a fence, a natural boundary or a combination of both; or
- (b) is enclosed in a manner that indicates the occupant’s intention to keep persons off his property,

but does not include any other part of the area that is a public place;

“defensive force” means the justifiable and reasonable use of force by a person acting in self-defence, in defence of property or in defence of another person;

“dwelling house” includes –

- (a) any structure or part of a structure whether permanent or temporary and whether fixed or capable of being moved which is designed or adapted for use as a dwelling or residence;
- (b) any adjacent land, building or other structure within the same curtilage as a dwelling house and occupied for the same purpose, or an associated place; or
- (c) a boat, ship or other vehicle in or on which a person resides, which has been designed or adapted for use as a dwelling or residence,

and it is immaterial if the dwelling house is from time to time uninhabited;

“enters” in relation to a dwelling house, means any intrusion by a person or an instrument they control –

- (a) across the threshold or opening of a dwelling house; or
- (b) into the curtilage, or into an associated place, of a dwelling house,

and that person obtains entry –

- (c) without lawful justification or excuse;
- (d) by a threat or a deception; or
- (e) by collusion with a person within the dwelling house;

Chap. 16:01

“explosive device” means an explosive or incendiary weapon that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

“firearm” has the meaning assigned to it under section 2 of the Firearms Act;

“home invader” means a person who knowingly enters or remains at a dwelling house in which he is not an occupant, with the intention to carry out a home invasion;

“imitation firearm” means anything which has the appearance of being a firearm whether it is capable of discharging any ammunition or not;

“immediate family member” in relation to an occupant, means any of the following persons –

- (a) his parent, step-parent or guardian;
- (b) his spouse, cohabitant or fiancé;
- (c) his child, step-child or other dependant;
- (d) his brother, sister, half-brother, half-sister, step-brother or step-sister;
- (e) his grandparent;
- (f) his father-in-law, mother-in-law, brother-in-law or sister-in-law;
- (g) an uncle, aunt, uncle-in-law or aunt-in-law;
- (h) a nephew, niece or cousin; or
- (i) any other person who ordinarily or periodically resides in the same dwelling house as the occupant and is related to the occupant by consanguinity, affinity or adoption;

Chap. 4:61

“member of a law enforcement authority” means –

Chap. 13:02

Chap. 14:01

Chap. 15:01

Chap. 15:02

Chap. 15:03

- (a) a bailiff under the Bailiffs Act;
- (b) a member of the Prison Service established under the Prison Service Act;
- (c) a member of the Trinidad and Tobago Defence Force established under the Defence Act;
- (d) a police officer appointed under the Police Service Act;
- (e) a constable as defined under the Supplemental Police Act;
- (f) a member of the Special Reserve Police appointed under the Special Reserve Police Act;

Chap. 15:05

Chap. 25:04

Chap. 78:01

- (g) a member of the Police Complaints Authority established under the Police Complaints Authority Act;
- (h) a member of the Municipal Police Service appointed under the Municipal Corporations Act;
- (i) a Customs Officer under the Customs Act;
- (j) a person lawfully executing, or assisting in the lawful execution of, an order of the Court; or
- (k) any other agency of the State in which investigative powers, similar to those exercisable by a police officer appointed under the Police Service Act, are lawfully vested;

“occupant” means a person in lawful possession of a dwelling house and includes –

- (a) the owner, occupier, tenant or any other person having the control or management of a dwelling house;
- (b) an immediate family member of an occupant, who resides in a dwelling house either permanently or temporarily;
- (c) a person who resides, either permanently or temporarily, in a dwelling house with the express permission of an occupant;
- (d) a person who, at the material time, has a right to be at the dwelling house, is in the employ of an occupant, acts under an occupant’s direction for any purpose or is responsible for an occupant’s care and support, either on a temporary or permanent basis; or
- (e) a person who, at the material time, is visiting a dwelling house as an invited guest;

“place” means any land, building or structure, or a part of any land, building or structure;

“property” means real or personal property, whether tangible or intangible, moveable or immovable, including money or any other right or interest;

“public place” means an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not but does not include any premises in actual use as a dwelling house which are not used for commercial purposes;

“serious criminal offence” means an offence punishable with a term of imprisonment of five years or more, and includes an offence where death, imprisonment for the remainder of a person’s natural life or life imprisonment is the penalty fixed by law;

“weapon” includes any implement which is used, designed to be used, intended for use, adapted or altered for use, in order to cause physical harm or damage;

- (2) For the purposes of this Act –
- (a) a reference to a dwelling house includes a reference to the curtilage of the dwelling house;
  - (b) a person enters a dwelling house as soon as any part of his body or any part of an instrument that he uses is within any part of the dwelling house; and
  - (c) a person who carries out a home invasion may act on his own or in the company of one or more persons.

Application of Act

**5.** Subject to the provisions of this Act, an occupant who is in lawful possession of a dwelling house in which that person has a right to be, at the material time, has –

- (a) no duty to retreat from a home invader at the dwelling house; and
- (b) the right to stand his ground and use, or threaten to use, defensive force to protect himself, another person or his property from a home invader.

Home Invasion

**6.(1)** Subject to subsection (3), a person commits a home invasion if he –

- (a) unlawfully enters an occupied dwelling house when he knows or has reason to know that one or more persons is present in the dwelling house;
- (b) unlawfully enters a dwelling house and remains therein until one or more persons is present in the dwelling house;
- (c) fraudulently represents himself to be a member of a law enforcement authority, or a representative of any other public or private entity, for the purpose of gaining entry into an occupied dwelling house;

- (d) is invited into an occupied dwelling house and fails to leave immediately on being asked by an occupant to do so; or
- (e) enters an occupied dwelling house and then forms the intention to commit a serious criminal offence,

and –

- (f) while armed with a weapon intimidates, uses force or threatens the imminent use of force on any person within the dwelling house, whether or not injury occurs;
- (g) while armed with a firearm or an imitation firearm, intimidates, uses force or threatens the imminent use of force on any person within the dwelling house, whether or not injury occurs;
- (h) intentionally causes any injury, including grievous bodily harm or death, or commits a grievous sexual assault or rape, of any person in the dwelling house;
- (i) steals any property with or without the use of intimidation, threats or violence;
- (j) damages or destroys any property with or without the use of intimidation, threats or violence;
- (k) intimidates, uses force or threatens the imminent use of force on any person within the dwelling house, whether or not the injury occurs, and during the commission of an offence discharges a firearm or detonates an explosive device; or
- (l) discharges a firearm or detonates an explosive device that causes grievous bodily harm, permanent disability or permanent disfigurement to any person within the dwelling house.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for twenty years.

(3) Where a person carries out a home invasion –

- (a) acting as member of a gang;
- (b) as a participant in an organised criminal activity; or
- (c) in the presence of a child, senior citizen, differently-abled person or otherwise vulnerable person,

that person commits an offence is liable on conviction on indictment to a fine of seven hundred and fifty thousand dollars and to imprisonment for twenty-five years.

(4) A person who commits an offence under subsection (1) or (3) which causes the death of another person, is to be charged with the offence of murder and is liable on conviction to suffer death.

Self-Defence

**7.(1)** Subject to section 10, an occupant has no duty to retreat and has the right to stand his ground against a home invader and use, or threaten to use, force against the home invader where the occupant –

- (a) believes, on reasonable grounds –
  - (i) that force was being used against him or another person or that a threat of force was being made against him or another person; or
  - (ii) that his life, or the life of another person was in immediate danger or threat of danger;
- (b) believes that his actions were necessary and reasonable in order to defend or protect himself, or another person, from the use or threat of force; and
- (c) establishes that the defensive force used was proportionate to the threat he honestly believed to exist.

(2) When determining whether the defensive force used was reasonable in the circumstances, the Court shall take into account –

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the occupant's role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon, firearm, or an explosive device;
- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) whether any party to the incident is a person with a mental disorder within the meaning of the Mental Health Act;
- (g) the nature, duration and history of any relationship between the parties to the incident, including –
  - (i) any prior use or threat of force, and the nature of that force or threat; or
  - (ii) whether either party ever applied for, or obtained, an Order against the other in accordance with the Domestic Violence Act;

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- (h) any history of interaction or communication between the parties to the incident;
- (i) the nature and proportionality of the occupant's response to the use or threat of force;
- (j) whether the occupant acted under a mistaken belief of imminent threat or use of force and the mistake was a reasonable one to have made;
- (k) whether there was a possibility that the occupant could have safely retreated, notwithstanding the fact that there was no duty to retreat;
- (l) that, having regard to the circumstances, an occupant acting for a legitimate purpose may not be able to weigh, to a precise degree, the exact measure of any necessary action;
- (m) whether the occupant did what he honestly and instinctively thought was necessary for a legitimate purpose; and
- (n) any other compelling factors based on the circumstances of the case.

(3) For the purposes of this section the use of deadly force may be justified where an occupant reasonably believes that using or threatening to use such force is necessary to prevent imminent death, grievous bodily harm, grievous sexual assault or rape to himself or another.

#### Defence of Property

**8.(1)** Subject to section 10, an occupant has no duty to retreat and has the right to stand his ground against a home invader and use, or threaten to use, force against the home invader or do anything else that he believes, on reasonable grounds, to be necessary –

- (a) to prevent a home invader from entering his dwelling house or an associated place;
- (b) to cause a home invader who is in his dwelling house or an associated place to leave the dwelling house or associated place;
- (c) to protect his property or the property of another person from theft, damage or destruction by a home invader; or
- (d) to prevent a home invader from committing, or stop a home invader from committing, a serious criminal offence in his dwelling house or an associated place.



- (2) Where –
  - (a) a part of a building is a dwelling house in which an occupant resides;
  - (b) another part of the building is a place of work for the occupant or another person who also resides in the dwelling house; and
  - (c) that other part referred to in paragraph (b) is internally accessible from the first part,

that other part, and any internal means of access between the two parts, are each treated for the purpose of subsection (1) as a part of a building that is a dwelling house.

- (3) For the purposes of this section, it is immaterial –
  - (a) whether a belief is justified or not if it is honestly held, but in considering whether an occupant using defensive force honestly held the belief, the Court shall have regard to the presence or absence of reasonable grounds for the occupant so believing and all other relevant circumstances;
  - (b) whether the occupant using the defensive force had a safe and practicable opportunity to retreat from the dwelling house before using the defensive force concerned.

(4) For the purposes of this section the use of deadly force may be justified where an occupant reasonably believes that using or threatening to use such force is necessary to prevent or remove a home invader from his dwelling house, or to protect his property or that of another person.

(5) For the avoidance of doubt, a reference in this section to “property” includes, unless the context otherwise requires, a reference to a dwelling house.

Person assisting  
occupant

- 9.** For the purposes of sections 7 and 8, it is lawful for a person
  - (a) acting in good faith in aid of an occupant during a home invasion; or
  - (b) who acts on the direction of an occupant during a home invasion,

to use the same degree of force against a home invader that an occupant may reasonably use.

Exceptions

**10.(1)** Sections 7 and 8 do not apply where –

- (a) a person against whom force is used or threatened has the right to be in, or is an occupant in the dwelling house;
- (b) the degree of force used by an occupant is grossly disproportionate in the circumstances;
- (c) the occupant who uses or threatens to use force is engaged in criminal activity or is using the dwelling house to further criminal activity;
- (d) the person against whom the force is used or threatened is a member of a law enforcement authority who enters or attempts to enter the dwelling house in the lawful execution of his duties;
- (e) the occupant who uses or threatens to use force knew or reasonably should have known that the person entering or attempting to enter the dwelling house was a member of a law enforcement authority acting in the lawful execution of his duties; or
- (f) the mental faculties of an occupant who uses force were, at the time of the alleged offence, substantially affected by the voluntary consumption of a drug.

(2) For the purposes of this section “drug” includes alcohol or any other substance that is capable, either alone or in combination with other substances, of influencing mental functioning.

Passed in the House of Representatives this                      day of                      , 2025

*Clerk of the House*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes                      of                      members of the House.

*Clerk of the House*

Passed in the Senate this \_\_\_\_\_ day of \_\_\_\_\_, 2025

*Clerk of the Senate*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of \_\_\_\_\_ Senators.

*Clerk of the Senate*

## APPENDIX B

### **THE HOME INVASION (SELF-DEFENCE AND DEFENCE OF PROPERTY) BILL, 2025**

#### **NOTE ON THE RIGHT TO LIFE**

Clauses 7 and 8 of **The Home Invasion (Self-Defence and Defence of Property) Bill, 2025** (‘the Bill’) seek to provide that a person has no duty to retreat when operating in self-defence and defence of property in the context of home invasions. These provisions expressly state that the use of deadly force may be justified where it is necessary to –

- (a) prevent imminent death, rape, grievous sexual assault or grievous bodily harm; or
- (b) prevent or remove a home invader or to protect property.

The proposed provisions in clauses 7 and 8 seek to justify the taking of life in specified circumstances and would therefore infringe upon the right to life as provided for in section 4 of the Constitution.

Sections 4 and 5 of the Constitution enshrine the fundamental human rights and freedoms which exist in Trinidad and Tobago. Section 4 of the Constitution provides:

4. *It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:*
  - (a) *the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law ... ”*

In **Francis and Hinds v The State**<sup>43</sup>, it was noted that the rights conferred under the Constitution are not absolute. Thus, the fundamental rights and freedoms guaranteed by the Constitution are qualified, as for example, the right to liberty can be limited by a sentence handed down by a court on a criminal conviction. The right to life, as well, can be qualified by self-defence and defence of property. Further, as stated by Lord Bingham of Cornhill in the case of **Hinds v Attorney General of Barbados**,<sup>44</sup> when construing a Constitution ‘it is not to be read as an immutable historical document but as a living instrument, reflecting the values of the people as they gradually change over time.’

Where a proposed Act of Parliament, such as this Bill, infringes sections 4 and 5 of the Constitution, it is necessary to examine the two-prong test for constitutionality of an Act of Parliament under section 13 of the Constitution; section 13 reads as follows:

- 13(1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.*
- (2) An Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House ....”*

The first test is the need to enact the legislation with a special majority under section 13(2); and the second test would be to ensure that the proposed legislation is ‘reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual’ under section 13(1) of the Constitution. In determining whether the proposed provisions in the Bill are reasonably

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<sup>43</sup> Criminal Appeal Nos. 5 & 6 of 2010

<sup>44</sup> [2002] 1 A.C. 854 at 864

justifiable, the cases of **De Freitas v The Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing and Others**<sup>45</sup> and **Suratt v The Attorney General**<sup>46</sup> are instructive.

The words of Baroness Hale in **Suratt v The Attorney General** lend further clarity to the test of ‘reasonably justifiable’ as she stated:

*It cannot be the case that every Act of Parliament which impinges in any way upon the rights protected in ss 4 and 5 of the Constitution is for that reason alone unconstitutional. Legislation frequently affects rights such as freedom of thought and expression and the enjoyment of property. These are both qualified rights which may be limited either by general legislation or in the particular case, provided that the limitation pursues a legitimate aim and is proportionate to it. It is for Parliament in the first instance to strike the balance between individual rights and the general interest.*

In light of the above, the test then to be applied is whether –

- (a) the limitation of the fundamental right pursues a legitimate aim; and
- (b) the limitation is proportionate to that aim.

The limitation of the fundamental right to life in the Bill pursues legitimate aims because –

- it empowers law-abiding citizens to protect their homes and families from violent criminals by providing that an occupant in lawful occupation of a dwelling house has no duty to retreat and has the right to stand his ground when acting in self-defence, defence of property and defence of another when he is the victim of a home invasion;
- it gives an occupant who defends himself or another from home invaders greater legal protection by justifying the use of deadly force by an occupant when confronted by a home invader in his home when he reasonably believes that such force is necessary to prevent imminent death, rape, grievous sexual assault or grievous bodily harm.

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<sup>45</sup> (1999) 1 AC 69

<sup>46</sup> (2008) 1 AC 655

The limitation is proportionate to the legitimate aims in light of the several factors that the Court must take into account in deciding the reasonableness of the occupant's actions in using deadly force. These factors include, *inter alia*, the following:

- the nature of the force or threat being used against the occupant;
- the extent to which that force was imminent;
- whether a weapon, firearm or explosive device was used in the home invasion;
- the size, age, gender and physical capabilities of the parties;
- the nature and proportionality of the occupant's response to the threat; and
- whether the occupant did what he honestly and instinctively thought was necessary for a legitimate purpose.

In recent years there has been a rash of home invasions across Trinidad and Tobago. Citizens have recounted stories of being awakened by men armed with all manner of weapons in their homes. There are traumatic accounts of being tied up, threatened and beaten by bandits ransacking their homes for cash and other valuable items. Some citizens have even lost their lives in home invasions. While the problem of crime is multi-faceted, this Bill is a long-overdue measure to combat the spiralling crime of home invasions. The measures being proposed in this Bill will ensure that householders who are the victims of a home invasion are not treated as criminals when they act in self-defence, defence of another person or defence of property.

Thus, the aims of the Bill in light of the current bane of criminal activity, are sufficiently important, necessary and proportionate to limit the fundamental right to life.

The Law Reform Commission

July 2025