

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

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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;

“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;

Chap. 16:01

“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 –

- (a) a bailiff under the Bailiffs Act;

Chap. 13:02	(b) a member of the Prison Service established under the Prison Service Act;
Chap. 14:01	(c) a member of the Trinidad and Tobago Defence Force established under the Defence Act;
Chap. 15:01	(d) a police officer appointed under the Police Service Act;
Chap. 15:02	(e) a constable as defined under the Supplemental Police Act;
Chap. 15:03	(f) a member of the Special Reserve Police appointed under the Special Reserve Police Act;
Chap. 15:05	(g) a member of the Police Complaints Authority established under the Police Complaints Authority Act;
Chap. 25:04	(h) a member of the Municipal Police Service appointed under the Municipal Corporations Act;
Chap. 78:01	(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;
- (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.

Chap. 28:02

Chap. 45:56

(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