

Republican bill would let AZ ranchers shoot and kill border-crossers on their property

Doing so now is considered murder, but the proposed expansion of the ‘Castle Doctrine’ would make it legal

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Arizona Republicans want to let ranchers in southern Arizona legally shoot and kill undocumented immigrants who cross their land.

A bill moving through the state House of Representatives would make changes to the state’s existing “Castle Doctrine” law, which permits Arizonans to use deadly force against people who are trespassing or breaking into their home.

Rep. Justin Heap, a Mesa Republican, told the House Judiciary Committee on Feb. 14 that his House Bill 2843 is designed to close a loophole that he claims

has led to “increasingly larger numbers of migrants or human traffickers moving across farm and ranch land.”

The bill comes as an Arizona rancher awaits trial after he was arrested and charged with second-degree murder and aggravated assault for killing 48-year-old Gabriel Cuen-Butimea after he shot at a group of unarmed migrants walking through his 170-acre ranch outside of Nogales. Under its provisions, 73-year-old George Alan Kelly would have been justified for allegedly killing any of the migrants.

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The bill expands the Castle Doctrine law by changing the law to allow deadly force to be used if the intruder is either in the shooter’s residence or on his land. The law currently requires the intruder to be both on the land and in the residence or other structure designed for habitation.

“Language like ‘and’ ‘or’ ‘either’...that one word can completely change the meaning of how this law is then applied,” Heap said. “If a farmer owns 10,000 acres of farmland, his home may be a half a mile away from where he is, and if he sees someone on his land, can he approach them and (remove) them from his property? This is an amendment to fix that.”

Heap did not respond to requests for comment on his bill.

If passed, the change of “and” to “or” in state law would give a much broader defense to people who use deadly force, as property would only have to satisfy some of the requirements instead of all of them, said criminal defense attorney Jack Litwak.

“The idea with the Castle Doctrine is that you are supposed to be able to defend house and home,” he said. “This seems to broaden it to say you can shoot someone that’s just on your actual property.”

Litwak said that he believes that Heap’s legislation would extend self-defense laws to justify the use of violent force similar to the events that led to Cuen-

Buitimea's murder.

I do not think there is any sense in giving a green light to more extrajudicial killings.

– Rep. Analise Ortiz, D-Phoenix

Arizona is one of about 30 states with laws that remove the duty to retreat first before taking violent action, setting Arizona apart from states like Florida and Louisiana that are among the 10 states that do have explicit “Stand Your Ground” laws permitting violent force if one feels that they are being threatened.

Such laws sparked national debate in 2012, after Florida neighborhood watch volunteer George Zimmerman was acquitted of murder charges after claiming self defense in fatally shooting 17-year-old Trayvon Martin, who was visiting his father.

The conversation was reignited last April, when 16-year-old Ralph Yarl was shot in the head and arm by an 84-year-old homeowner for ringing his doorbell. Many worried that the shooter would be protected by Missouri’s “Stand Your Ground” law.

Just days later, 20-year-old Kaylin Gillis was shot and killed by a homeowner in upstate New York after she and her friends pulled into the wrong driveway while looking for a party.

Still, these incidents are not anomalies. A 2022 JAMA Network study showed that “Stand Your Ground” laws were linked to an 8-11% increase in monthly rates of homicide and firearm homicide, leading researchers to conclude that the enactment of similar legislation across the country was directly related to an increase in violent and avoidable deaths.

In committee, Rep. Alex Kolodin, R-Scottsdale, praised the bill for protecting people who could be accused of using excessive force in these situations.

“This is a great Second Amendment bill, that is also protecting the rights of the accused to make sure we are taking ambiguity out of our law,” Kolodin said.

It passed through committee with a 5-3-1, with every Democrat on the panel voting against it.

On the floor, Maryvale Democrat Rep. Analise Ortiz was a “strong no” on the measure.

“HB2843 expands the (Castle Doctrine) law in a way that I think is very dangerous, as guns continue to wreak havoc upon our communities. I do not think there is any sense in giving a green light to more extrajudicial killings,” Ortiz said.

The bill was approved by the state House on Feb. 22 by a 31-28 vote, with Republicans in favor and Democrats opposed. It now heads to the Senate for further consideration.