

24-25.07 Use Of Force In Defense Of Dwelling

A person is justified in the use of force when and to the extent that he reasonably believes that such conduct is necessary to [(prevent) (terminate)] another's unlawful [(entry into) (attack upon)] a dwelling.

[However, a person is justified in the use of force which is intended or likely to cause death or great bodily harm only if

[1] the entry is made or attempted in a violent, riotous, or tumultuous manner and he reasonably believes that such force is necessary to prevent an [(assault upon) (offer of personal violence to)] himself or another then in the dwelling.

[or]

[2] he reasonably believes that such force is necessary to prevent the commission of a felony in the dwelling.]

Committee Note

720 ILCS 5/7-2, 7-14, and 3-2 (West 2022).

Give Instruction 24-25.06A.

Give this instruction when the trial court has determined there is some evidence as to use of force in defense of a dwelling. See *People v. Kite*, 153 Ill.2d 40, 44-45, 605 N.E.2d 563, 565 (1992); *People v. Everette*, 141 Ill.2d 147, 565 N.E.2d 1295 (1990).

A home dweller is not required to wait for unlawful entry to be accomplished before using justifiable force against the invader. *People v. Yanez*, 2022 IL App (3d) 200007, ¶ 29, --- N.E.3d ---. Further, unlike self-defense, defense of a dwelling does not require danger to life or great bodily harm in order to invoke the right to kill. *Id.* (citing *People v. Eatman*, 405 Ill. 491, 497, 91 N.E.2d 387 (1950)). In applying a defense of dwelling defense, the issue is whether the facts and circumstances induced a reasonable belief that the threatened danger, whether real or apparent, existed. *Id.* The reasonableness of a defendant's subjective belief that he was justified in using deadly force is a question of fact for the fact finder. *Id.* at ¶30.

Use the bracketed paragraph when there is some evidence that the force used by the defendant was likely to cause death or great bodily harm.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.