A bill for an act

relating to public safety; clarifying law on use of force in defense of home and person; codifying and extending Minnesota's self-defense and defense of home laws; eliminating the common law duty to retreat in cases of self defense outside the home; expanding the boundaries of dwelling; creating a presumption in the case of a person entering a dwelling or occupied vehicle by force; extending the rights available to a person in his or her dwelling to a person defending against entry of his or her occupied vehicle; amending Minnesota Statutes 2008, section 609.065.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 609.065, is amended to read:

609.065 JUSTIFIABLE ~~TAKING OF LIFE~~ USE OF DEADLY FORCE IN SELF DEFENSE.

Subdivision 1. **Definitions.** ~~The intentional taking of the life of another is not authorized by section 609.06, except when necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's place of abode.~~ (a) For purposes of this section, the following terms have the meanings given them.

(b) "Substantial bodily harm" and "great bodily harm" have the meanings given them in section 609.02, subdivisions 7a and 8, respectively.

(c) "Court order" means an order for protection or no contact order issued under section 518B.01, or a restraining order or no contact order issued under section 609.748, or a substantively similar order issued by any court in any state.

(d) "Deadly force" means force used by an individual with the purpose of causing, or which the individual should reasonably know creates a substantial risk of causing, great bodily harm or death. The intentional discharge of a firearm by an individual at

another person, or at a vehicle in which another person is believed to be, constitutes deadly force. A threat to cause great bodily harm or death, by the production of a weapon or otherwise, constitutes reasonable force and not deadly force, so long as the individual's objective is limited to creating an expectation that the individual will use deadly force if authorized by law.

(e) "Dwelling" means a building or a conveyance of any kind, designed to be occupied by one or more persons lodging therein, including its curtilage and any attached deck, porch, appurtenance, or connected structure, whether the building or conveyance is used temporarily or permanently, is mobile or immobile, or is a tent.

(f) "Felony" has the meaning given in section 609.02, subdivision 2.

(g) "Vehicle" means "motor vehicle" as defined in section 168.002, subdivision 18.

Subd. 2. **Circumstances when authorized.** The use of deadly force by an individual in self defense is authorized by this section when the act is undertaken:

(1) to resist or prevent an offense or attempted offense by an assailant, which the individual reasonably believes constitutes an imminent threat that exposes the individual or another person to substantial or great bodily harm or death; or

(2) to resist or prevent the commission, in the individual's dwelling or occupied vehicle, of an offense or attempted offense that the individual reasonably believes is a felony.

Subd. 3. **Degree of force; retreat.** An individual using defensive action under circumstances described in subdivision 2 may stand the individual's ground in any place where the individual has a legal right to be, and may use all force and means, including deadly force, that the individual believes is required to succeed in defense. The individual may meet force with superior force, so long as the individual's objective is defense. The individual is not required to retreat, and may continue defensive actions against an assailant until the assailant is no longer an imminent threat.

Subd. 4. **Presumptions.** (a) A person who enters or attempts to enter by force or by stealth the dwelling or occupied vehicle of another person is presumed to do so with the intent to commit an unlawful act involving a life-threatening level of force.

(b) An individual using deadly force is presumed to possess a reasonable belief that there exists an imminent threat of substantial or great bodily harm or death to the individual or another person, if the individual knows or has reason to know that:

(1) the person against whom the defensive action is being taken is entering or attempting to enter by force or by stealth, or has entered by force or by stealth and remains within, the dwelling or occupied vehicle of the individual or other person; or

(2) the person against whom the defensive action is being taken is in the process of removing or attempting to remove by force the individual or another person from the dwelling or occupied vehicle of the individual or other person.

(c) The individual is not entitled to the benefit of the presumption set forth in paragraph (b) if the individual knows that the person against whom the defensive action is being taken:

(1) is a lawful resident of the dwelling or a lawful possessor of the vehicle, or is otherwise lawfully permitted to enter the dwelling or vehicle; or

(2) is the parent, grandparent, or guardian, or another person who has lawful custody of the person being removed or being sought to be removed from the dwelling or vehicle.

A person who is prohibited by a court order from contacting another individual or from entering a dwelling or possessing a vehicle of another individual is not a lawful resident of that individual's dwelling and is not a lawful possessor of that individual's vehicle.

Subd. 5. **Criminal investigation; immunity from prosecution.** (a) An individual who uses deadly force according to this section is justified in using such force and is immune from any criminal prosecution for that act.

(b) A law enforcement agency may arrest a person using force under circumstances described in this section only after considering any claims or circumstances supporting self-defense.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to qualifying uses of deadly force occurring on or after that date.