

By Russ Pankonin

The Imperial Republican

Senator Mark Christensen's bill to address self defense issues at home and work, LB 889, got killed in this year's session of the Unicameral but that doesn't mean he's giving up.

Prior to adjournment, Christensen got a legislative resolution passed to conduct an interim study on a key element of the bill, commonly known as the Castle Doctrine.

Christensen has built a reputation as a big advocate of Second Amendment gun rights. As a result, he wants to make sure people have the right to protect themselves in their homes, workplaces and vehicles without the threat of a civil lawsuit.

The Castle Doctrine gets its name from the basis that a person's home is their "castle." As such, one has the right to protection from illegal trespassing and violent attack.

Castle laws give people the legal right to use deadly force to defend their "castle" and other people in the home from violent attack or an intrusion which may lead to violent attack.

Christensen said many Nebraskans can't understand why Nebraska has the law it does right now. "You have a duty to retreat, if the opportunity presents itself, even from your own home, if it appears safe to do so," he said.

A person has a split second to make the decision whether or not to retreat. If a person doesn't decide to retreat, and uses a gun or other weapon to defend themselves, then the justification for use of force will likely be decided in a civil lawsuit, Christensen said.

"That's putting the innocent in a very difficult position because once someone breaks into your home, to me that's a threat," he said.

The property owner shouldn't be forced to show there was a threat due to a gun or knife or other bodily force, he noted.

If an intruder is trying to choke or rape someone, it's pretty hard to use force at that point, the senator said. The opportunity to take care of the situation was when the intruder crossed the threshold or when they were found inside the property, he added.

Concerns to be Addressed in Revised Legislation

Several concerns expressed in the last session and during the legislative hearing Tuesday, Nov. 16 will be addressed in new language when Christensen introduces the bill early next year.

Christensen said some were concerned about the ramifications if the intruder is shot in the back while running off the property.

He said the proposed language will allow shooting an intruder in the back while still in the home but not when they have fled the home and are running off the property.

If an intruder is shot, the bill will exempt the person defending their "castle" from any civil liability to the intruder, his family or anyone acting on the intruder's behalf.

However, it will not dismiss civil liability if the person shoots an innocent third party in the household in the process, since a gun owner must be in control of their weapon, Christensen added.

He said the law will also extend to the workplace and one's vehicle. The key in those situations centers on the element of imminent threat.

During last week's testimony, a number of people said the law's language still remains too complicated. That's something Christensen hopes to address before the bill is introduced.

Bill Must Get Out of Committee

The first challenge the bill will face will come from the new Judiciary Committee, which could see some new faces after reorganization.

Right now, Christensen figures three on the committee favor the bill while three are against it. Christensen was a member of the committee and plans to seek membership on the committee next year.

He'll need to pick up more support if the bill is to advance out of committee. He said he may consider making it his priority bill, depending on what water issues may emerge during the session.

He reiterated that water issues in the district still come first.

The Legislature will convene for the 90-day session on Jan.5, 2011.