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Another View: Our 'stand-your-ground' law encourages violent confrontations

BY REP. STEPHEN SHURTLEFF

The New Hampshire House is scheduled to vote Wednesday on House Bill 135, which would restore the self-defense statute that was in place for 34 years. A "stand your ground" law was enacted in 2011 over the veto of Gov. John Lynch.

For more than three decades, New Hampshire law permitted the use of deadly force in self-defense unless the person knew that he or she and others could retreat from the encounter with complete safety. The law provided ample protection to self-defense rights, as violent response was always allowed unless the person knew it wasn't necessary.

In 2011, the restriction on violent response was repealed as part of a national campaign to enact "stand your ground" laws at the state level. The change was made despite no documented problems with New Hampshire law; "stand your ground" advocates couldn't cite a single case where someone had been wrongly prosecuted for using deadly force instead of fleeing a perceived threat.

Since House Bill 135, which I sponsored, would simply restore a law that was working well, the arguments against it have been based almost entirely on misinformation. Opponents have claimed that the bill would restrict legitimate acts of self-defense and force people to "turn and run" from an attack. Most recently, opponents have claimed that HB 135 would prevent someone from displaying a weapon to stop another person from being attacked, as a good Samaritan recently did in Manchester.

Because New Hampshire operated under the law HB 135 would restore for more than three decades, we know that the claims against it are completely untrue. We know that people weren't forced to turn and run while being attacked, or denied the right to protect their family before 2011, and there is certainly no reason to believe that the law would be applied any differently now.

Fortunately, no one has used a "stand your ground" defense in this state since the law was adopted. Most people in New Hampshire have great respect for human life and would resort to violence as a last resort no matter how much leeway our statutes provide. With no actual cases to analyze, the question becomes what acts of violence our "stand your ground" law will protect when it is used as a defense.

Consider the murder trial currently underway for a July, 2011, shooting which left a man dead on a Manchester

street corner.

According to police, Pablo Samniego was walking with a friend on South Main Street when a car approached the two men and, after a brief confrontation, the man in the vehicle shot Samniego in the face. The vehicle sped off, and Samniego was dead when police arrived.

The defendant in the case, Tony Hebert, doesn't deny killing Samniego. According to news reports, Hebert is claiming that he shot Samniego in self-defense, because he "felt threatened by Samniego's aggressive behavior."

Hebert has been accused of acting with "extreme indifference to the value of human life." Since the incident occurred before "stand your ground" became law in New Hampshire, he will have a hard time proving that the shooting was a justifiable act of self-defense. Even if a jury is convinced that Samniego, whom witnesses say was unarmed, did exhibit aggressive behavior, the defense will still have to explain why Hebert chose to kill someone standing on the sidewalk rather than simply drive away from the encounter.

Had this incident occurred just four months later, after "stand your ground" became law in New Hampshire, Hebert would have more legal cover for his actions. The ability to safely remove oneself from an encounter, even when the person knows it wouldn't expose himself or herself or anyone else to danger, is no longer even taken into consideration. Under "stand your ground," resorting to violence is legal even when the person knows he or she does not need to.

Incidents like this show why the Legislature must act now to restore the law that worked so well for so long. It shouldn't take another drive-by shooting like the one that killed Pablo Samniego to tell us that "stand your ground" is wrong for New Hampshire.

We know from 34 years' experience that a "stand your ground" law is not needed to protect legitimate acts of self-defense. We also know that when a "stand your ground" defense is used, by definition it will be by someone who knowingly chose to act violently when he or she didn't have to.

Laws that give legal protection to those who knowingly choose violence have no place in our state, especially when the alternative has been proven to effectively protect both self-defense rights and the safety of the public. The

Legislature should support restoring our self-defense law before a killer uses "stand your ground" to walk free.

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