Self-defense differs in Illinois
By Shaun Zinck
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SPRINGFIELD — The shooting death of Florida native Trayvon Martin sparked a heated debate over so-called "Stand Your Ground" laws that allow someone to use deadly force to protect themselves if they believe they face bodily harm.

Many states have enacted laws more expansive than Stand Your Ground called the Castle Doctrine. The laws expand what qualifies as self-defense when using deadly force. The National Rifle Association Institute for Legislative Action's website recognizes 30 states with the Castle Doctrine, which means a person has a right to use deadly force to defend themselves anywhere they may be.

Illinois doesn't have the Castle Doctrine, the website says.

Florida, where George Zimmerman shot Martin, has significantly less regulation than Illinois does, said Matthew P. Jones, associate director for administration at the State's Attorneys Appellate Prosecutor's Office.

Zimmerman claimed self-defense and that he feared for his life. A police report released today says an unarmed Martin punched Zimmerman and then slammed his head on the pavement several times before Zimmerman shot him. The police said Zimmerman followed Martin in his SUV and then on foot before calling police to report a suspicious person.

Jones said in Illinois, the force used to defend must be proportional to the danger they face.

"You can't bring a gun to a fist fight," he said. "You can't use deadly force when there is no deadly force being used against you."

Jerry E. Norton, a professor at Loyola University Chicago School of Law, said Florida law presumes the shooter feared for their life.

"It makes one who claims justified use of force immune from not only conviction, but also arrest and charging," Norton said.

Jones said Illinois has an affirmative defense, which means if a defendant claims self-defense after killing someone, they must prove that the danger they faced justified using deadly force. That burden shifts to the prosecution in Florida, he said.

Illinois does compare to Florida in that the law does not require a person under threat of harm to retreat.

Richard S. Kling, a clinical law professor at IIT Chicago-Kent College of Law, said a person can fight back if they get attacked first.
"No duty to retreat exists," he said. "It's not a legal concept, but more of common sense concept."

However, using deadly force when someone breaks into a home can be interpreted different ways.

Illinois law says a person may use deadly force when someone breaks into his or her home in a "violent, riotous or tumultuous manner."

Jones said a person breaking the glass in a back door to enter and burglarize a house does not fit the requirements under the law and, therefore, a person would not be justified in using deadly force.

Kling disagreed and said if a person breaks into a home, the owner can reasonably believe they are in great danger.

"If someone breaks into your house, whether sneaking or breaking into it violently, they are committing a forcible felony and, in my opinion, you would be justified to use deadly force," Kling said.

Richard Pearson, executive director of the Illinois State Rifle Association, said he believes crime would go down if Illinois had the same law in Florida because criminals might think twice if they knew a person could use a gun to protect themselves. He also said the events in Florida haven't fully been revealed and speculating won't help the matter.

"It seems to me if any evidence existed that (Zimmerman) did anything improper, then he would be in jail," Pearson said. "One of the things people are saying is if the law wasn't like this, that person wouldn't have shot that boy. The law probably didn't make a difference one way or the other."

State Rep. Richard Morthland, R-Cordova, plans to create a law similar to that in Florida. House Bill 5681 creates the Armed Citizen Liability Act, which presumes a person who kills another feared for their life. Morthland filed the bill in the mid-February and it now sits in the House Rules Committee.