

Committee on Criminal Justice

CS/CS/HB 89 — Threatened Use of Force

by Judiciary Committee; Criminal Justice Subcommittee; and Reps. Combee, Edwards, and others (CS/CS/SB 448 by Rules Committee; Judiciary Committee; and Senator Evers)

The bill amends Florida's self-defense laws in ch. 776, F.S., and the 10-20-Life sentencing law in s. 775.087, F.S.

The self-defense laws regulate a person's right to use force in self-defense and provide that a person is immune from civil actions and criminal prosecutions for the lawful use of force. The self-defense laws in ch. 776, F.S., do not expressly regulate the use of threats of force in self-defense. This bill expressly authorizes a person to threaten the use of force in all situations in which the person may lawfully use actual force in self-defense. Additionally, the bill extends the immunity protections in existing law for the lawful use of force to a person who lawfully uses threats of force in self-defense.

In recent years, defendants have been convicted of aggravated assault for threatening to use force (e.g., displaying a firearm, firing a "warning shot," etc.) and sentenced to mandatory minimum terms of imprisonment pursuant to the 10-20-Life law. In some cases the defendant unsuccessfully argued self-defense at an immunity hearing or trial, or both. This bill provides an exception for sentencing aggravated assault cases outside the 10-20-Life minimum mandatory terms of imprisonment if the court makes specified written findings.

The bill provides a process for a person charged with a criminal offense but found to have acted in lawful self-defense to apply to the court to expunge the record.

The bill clarifies that immunity from criminal prosecution only applies when a person has used lawful self-defense. Immunity from civil suit only applies when a civil action is brought by the person against whom the lawful force was used or threatened to be used, a personal representative, or heirs of that person.

The bill further clarifies that the person using self-defense as set forth in ch. 776, F.S., should not be engaged in a criminal activity at the time.

The bill also reorganizes the self-defense provisions in ch. 776, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 32-7; House 93-24