

1 A bill to be entitled
2 An act relating to the protection of persons and property;
3 creating s. 776.013, F.S.; authorizing a person to use
4 force, including deadly force, against an intruder or
5 attacker in a dwelling, residence, or vehicle under
6 specified circumstances; creating a presumption that a
7 reasonable fear of death or bodily injury exists under
8 certain circumstances; creating a presumption that a
9 person acts with the intent to use force or violence under
10 specified circumstances; providing definitions; amending
11 ss. 776.012 and 776.031, F.S.; providing that a person is
12 justified in using deadly force under certain
13 circumstances; declaring that a person is not under a duty
14 to retreat if the person is in a place where he or she has
15 a right to be; creating s. 776.032, F.S.; providing
16 immunity from criminal prosecution or civil action for
17 using deadly force; authorizing a law enforcement agency
18 to investigate the use of deadly force but prohibiting the
19 agency from arresting the person unless the agency
20 determines that probable cause exists showing that the
21 force the person used was unlawful; directing the court to
22 award attorney's fees, court costs, loss of income, and
23 other expenses under specified circumstances; amending s.
24 776.041, F.S.; revising the circumstances that justify the
25 use of force by an aggressor; providing an effective date.

26
27 WHEREAS, the Legislature finds that it is necessary to
28 restore absolute rights of law-abiding people to protect

29 themselves, their families and others, and their property from
 30 intruders and attackers without fear of prosecution or civil
 31 action for defending that to which they are rightfully entitled,
 32 and

33 WHEREAS, the castle doctrine is an ancient common-law
 34 doctrine, with origins going back at least to Roman law, which
 35 declares that a man's home is his castle and, thus, a person may
 36 use all manner of force, including deadly force, to protect it
 37 and its inhabitants from attack, and

38 WHEREAS, Section 2 of Article I of the State Constitution
 39 guarantees basic rights to all natural persons, including the
 40 right to defend life and protect property, and

41 WHEREAS, the residents of this state have a right to expect
 42 absolute safety within their own homes or vehicles, and

43 WHEREAS, no person or victim of crime should be required to
 44 surrender his or her life, health, or property to a criminal,
 45 nor should a person or victim be required to retreat in the face
 46 of intrusion or attack, NOW, THEREFORE,

47
 48 Be It Enacted by the Legislature of the State of Florida:

49
 50 Section 1. Section 776.013, Florida Statutes, is created
 51 to read:

52 776.013 Home protection; use of deadly force; presumption
 53 of fear of death or bodily injury.--

54 (1) A person is presumed to have held a reasonable fear of
 55 imminent peril of death or bodily injury to himself or herself
 56 or another when using defensive force that is intended or likely

57 to cause death or bodily injury to another if:

58 (a) The person against whom the defensive force was used
 59 had unlawfully or forcibly entered or attempted to enter a
 60 dwelling, residence, or vehicle or if that person had removed or
 61 attempted to remove another from the dwelling, residence, or
 62 vehicle.

63 (b) The person using defensive force knew or had reason to
 64 believe that an unlawful or forcible entry or unlawful or
 65 forcible act had occurred.

66
 67 A person does not have a duty to retreat from a dwelling,
 68 residence, vehicle, or place where the person has a right to be.

69 (2) A person who unlawfully enters or attempts to enter a
 70 person's dwelling, residence, or occupied vehicle is presumed to
 71 do so with the intent to commit an unlawful act involving force
 72 or violence.

73 (3) As used in this section, the term:

74 (a) "Dwelling" means a building or conveyance of any kind,
 75 including any attached porch, whether the building or conveyance
 76 is temporary or permanent, mobile or immobile, which has a roof
 77 over it, including a tent, and is designed to be occupied by
 78 people lodging therein at night, together with the curtilage
 79 thereof.

80 (b) "Residence" means a dwelling in which a person resides
 81 either temporarily or permanently or is visiting as an invited
 82 guest.

83 (c) "Vehicle" means any conveyance of any kind, whether or
 84 not motorized, which is designed to transport people or

85 property.

86 Section 2. Section 776.012, Florida Statutes, is amended
87 to read:

88 776.012 Use of force in defense of person.--A person is
89 justified in using ~~the use of~~ force that is intended or likely
90 to cause death or bodily injury, ~~except deadly force,~~ against
91 another when and to the extent that the person reasonably
92 believes that such conduct is necessary to defend himself or
93 herself or another against the ~~such~~ other's imminent use of
94 unlawful force. ~~However, the person is justified in the use of~~
95 ~~deadly force only if he or she reasonably believes that such~~
96 ~~force is necessary to prevent imminent death or great bodily~~
97 ~~harm to himself or herself or another~~ or to prevent the imminent
98 commission of a forcible felony. A person does not have a duty
99 to retreat if the person is in a place where he or she has a
100 right to be.

101 Section 3. Section 776.031, Florida Statutes, is amended
102 to read:

103 776.031 Use of force in defense of others.--A person is
104 justified in the use of force, except deadly force, against
105 another when and to the extent that the person reasonably
106 believes that such conduct is necessary to prevent or terminate
107 the ~~such~~ other's trespass on, or other tortious or criminal
108 interference with, either real property other than a dwelling or
109 personal property, lawfully in his or her possession or in the
110 possession of another who is a member of his or her immediate
111 family or household or of a person whose property he or she has
112 a legal duty to protect. However, the person is justified in the

113 use of deadly force only if he or she reasonably believes that
 114 the such force is necessary to prevent the imminent commission
 115 of a forcible felony. A person does not have a duty to retreat
 116 if the person is in a place where he or she has a right to be.

117 Section 4. Section 776.032, Florida Statutes, is created
 118 to read:

119 776.032 Immunity from criminal prosecution and civil
 120 action for justifiable use of force.--

121 (1) A person who uses force as described in s. 776.012, s.
 122 776.013, or s. 776.031 is justified in using such force and is
 123 immune from criminal prosecution and civil action for the use of
 124 such force.

125 (2) A law enforcement agency may use standard procedures
 126 for investigating the use of the force, but the agency may not
 127 arrest the person for using force unless it determines that
 128 probable cause exists showing that the force that was used was
 129 unlawful.

130 (3)(a) The court shall award attorney's fees, court costs,
 131 compensation for loss of income, and all expenses incurred by
 132 the defendant in defense of the criminal prosecution if the
 133 court finds that the defendant is immune from prosecution as
 134 provided in subsection (1).

135 (b) As used in this subsection, the term "criminal
 136 prosecution" includes wrongfully arresting, detaining in
 137 custody, and charging or prosecuting the defendant. The law
 138 enforcement agency or state attorney that brought the criminal
 139 prosecution is liable to the defendant for the payment of fees
 140 and costs.

141 (4) The court shall award attorney's fees, court costs,
 142 compensation for loss of income, and all expenses incurred by
 143 the defendant in defense of any civil action brought by a
 144 plaintiff if the court finds that the defendant is immune from
 145 prosecution as provided in subsection (1). The plaintiff and the
 146 plaintiff's attorney are jointly and severally liable to the
 147 defendant for the payment of fees and costs.

148 Section 5. Section 776.041, Florida Statutes, is amended
 149 to read:

150 776.041 Use of force by aggressor.--The justification
 151 described in the preceding sections of this chapter is not
 152 available to a person who:

153 (1) Is attempting to commit, committing, or escaping after
 154 the commission of, a forcible felony; or

155 (2) Initially provokes the use of force against himself or
 156 herself, unless:

157 ~~(a) Such force is so great that the person reasonably~~
 158 ~~believes that he or she is in imminent danger of death or great~~
 159 ~~bodily harm and that he or she has exhausted every reasonable~~
 160 ~~means to escape such danger other than the use of force which is~~
 161 ~~likely to cause death or great bodily harm to the assailant; or~~

162 **(b)** in good faith, the person withdraws from physical
 163 contact with the assailant and indicates clearly to the
 164 assailant that he or she desires to withdraw and terminate the
 165 use of force, but the assailant continues or resumes the use of
 166 force.

167 Section 6. This act shall take effect upon becoming a law.