



1           the use of force by an aggressor; providing an  
2           effective date.

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4           WHEREAS, the Legislature finds that it is necessary to  
5 restore absolute rights of law-abiding people to protect  
6 themselves, their families and others, and their property from  
7 intruders and attackers without fear of prosecution or civil  
8 action for defending that to which they are rightfully  
9 entitled, and

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

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

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

20           WHEREAS, no person or victim of crime should be  
21 required to surrender his or her life, health, or property to  
22 a criminal, nor should a person or victim be required to  
23 retreat in the face of intrusion or attack, NOW, THEREFORE,

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25 Be It Enacted by the Legislature of the State of Florida:

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27           Section 1. Section 776.013, Florida Statutes, is  
28 created to read:

29           776.013 Home protection; use of deadly force;  
30 presumption of fear of death or bodily injury.--

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1           (1) A person is presumed to have held a reasonable  
2 fear of imminent peril of death or bodily injury to himself or  
3 herself or another when using defensive force that is intended  
4 or likely to cause death or bodily injury to another if:

5           (a) The person against whom the defensive force was  
6 used had unlawfully or forcibly entered or attempted to enter  
7 a dwelling, residence, or vehicle or if that person had  
8 removed or attempted to remove another from the dwelling,  
9 residence, or vehicle; and

10           (b) The person using defensive force knew or had  
11 reason to believe that an unlawful or forcible entry or  
12 unlawful or forcible act had occurred.

13  
14 A person does not have a duty to retreat from a dwelling,  
15 residence, vehicle, or place where the person has a right to  
16 be.

17           (2) A person who unlawfully enters or attempts to  
18 enter a person's dwelling, residence, or occupied vehicle is  
19 presumed to be doing so with the intent to commit an unlawful  
20 act involving force or violence.

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

22           (a) "Dwelling" means a building or conveyance of any  
23 kind, including any attached porch, whether the building or  
24 conveyance is temporary or permanent, mobile or immobile,  
25 which has a roof over it, including a tent, and is designed to  
26 be occupied by people lodging therein at night, together with  
27 the curtilage thereof.

28           (b) "Residence" means a dwelling in which a person  
29 resides either temporarily or permanently or is visiting as an  
30 invited guest.

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1           (c) "Vehicle" means any conveyance of any kind,  
2 whether or not motorized, which is designed to transport  
3 people or property.

4           Section 2. Section 776.012, Florida Statutes, is  
5 amended to read:

6           776.012 Use of force in defense of person.--A person  
7 is justified in using the use of force that is intended or  
8 likely to cause death or bodily injury, ~~except deadly force,~~  
9 against another when and to the extent that the person  
10 reasonably believes that such conduct is necessary to defend  
11 himself or herself or another against the such other's  
12 imminent use of unlawful force. ~~However, the person is~~  
13 ~~justified in the use of deadly force only if he or she~~  
14 ~~reasonably believes that such force is necessary to prevent~~  
15 ~~imminent death or great bodily harm to himself or herself or~~  
16 ~~another~~ or to prevent the imminent commission of a forcible  
17 felony. A person does not have a duty to retreat if the person  
18 is in a place where he or she has a right to be.

19           Section 3. Section 776.031, Florida Statutes, is  
20 amended to read:

21           776.031 Use of force in defense of others.--A person  
22 is justified in the use of force, except deadly force, against  
23 another when and to the extent that the person reasonably  
24 believes that such conduct is necessary to prevent or  
25 terminate the such other's trespass on, or other tortious or  
26 criminal interference with, either real property other than a  
27 dwelling or personal property, lawfully in his or her  
28 possession or in the possession of another who is a member of  
29 his or her immediate family or household or of a person whose  
30 property he or she has a legal duty to protect. However, the  
31 person is justified in the use of deadly force only if he or

1 she reasonably believes that ~~the such~~ force is necessary to  
2 prevent the imminent commission of a forcible felony. A person  
3 does not have a duty to retreat if the person is in a place  
4 where he or she has a right to be.

5 Section 4. Section 776.032, Florida Statutes, is  
6 created to read:

7 776.032 Immunity from criminal prosecution and civil  
8 action for justifiable use of force.--

9 (1) A person who uses force as described in s.  
10 776.012, s. 776.013, or s. 776.031 is justified in using such  
11 force and is immune from criminal prosecution and civil action  
12 for the use of such force.

13 (2) A law enforcement agency may use standard  
14 procedures for investigating the use of the force, but the  
15 agency may not arrest the person for using force unless it  
16 determines that probable cause exists showing that the force  
17 that was used was unlawful.

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

23 (b) As used in this subsection, the term "criminal  
24 prosecution" includes wrongfully arresting, detaining in  
25 custody, and charging or prosecuting the defendant. The law  
26 enforcement agency or state attorney that brought the criminal  
27 prosecution is liable to the defendant for the payment of fees  
28 and costs.

29 (4) The court shall award attorney's fees, court  
30 costs, compensation for loss of income, and all expenses  
31 incurred by the defendant in defense of any civil action

1 brought by a plaintiff if the court finds that the defendant  
2 is immune from prosecution as provided in subsection (1). The  
3 plaintiff and the plaintiff's attorney are jointly and  
4 severally liable to the defendant for the payment of fees and  
5 costs.

6 Section 5. Section 776.041, Florida Statutes, is  
7 amended to read:

8 776.041 Use of force by aggressor.--The justification  
9 described in the preceding sections of this chapter is not  
10 available to a person who:

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

13 (2) Initially provokes the use of force against  
14 himself or herself, unless+

15 ~~(a) Such force is so great that the person reasonably~~  
16 ~~believes that he or she is in imminent danger of death or~~  
17 ~~great bodily harm and that he or she has exhausted every~~  
18 ~~reasonable means to escape such danger other than the use of~~  
19 ~~force which is likely to cause death or great bodily harm to~~  
20 ~~the assailant; or~~

21 ~~(b)~~ in good faith, the person withdraws from physical  
22 contact with the assailant and indicates clearly to the  
23 assailant that he or she desires to withdraw and terminate the  
24 use of force, but the assailant continues or resumes the use  
25 of force.

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

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SENATE SUMMARY

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2  
3 Provides that a person may use force, including deadly  
4 force, against an intruder or attacker in a dwelling,  
5 residence, or vehicle under specified circumstances. Creates  
6 a presumption that a reasonable fear of death or  
7 bodily injury exists under certain circumstances. Creates  
8 a presumption that a person acts with the intent to use  
9 force or violence under specified circumstances. Provides  
10 that a person is justified in using deadly force.  
11 Declares that a person is not under a duty to retreat if  
12 the person is in a place where he or she has a right to  
13 be. Provides that a person is immune from criminal  
14 prosecution and civil action for using deadly force.  
15 Authorizes a law enforcement agency to investigate the  
16 use of deadly force but prohibits the agency from  
17 arresting the person unless the agency determines that  
18 probable cause exists showing that the force that was  
19 used was unlawful. Directs the court to award attorney's  
20 fees, court costs, loss of income, and other expenses  
21 under specified circumstances. Revises the circumstances  
22 that justify the use of force by an aggressor.  
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