

By Senator Thompson

12-00104-14

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1                   A bill to be entitled  
2           An act relating to the use of deadly force in defense  
3           of a person; repealing s. 776.013, F.S., relating to  
4           home protection and the use of deadly force, which  
5           created a presumption of fear of death or great bodily  
6           harm in certain circumstances and provided that a  
7           person has no duty to retreat and has the right to  
8           stand his or her ground and meet force with force in  
9           certain circumstances; amending ss. 776.012, 776.032,  
10          and 790.15, F.S.; conforming provisions; defining the  
11          term "dwelling"; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Section 776.013, Florida Statutes, is repealed.

16           Section 2. Section 776.012, Florida Statutes, is amended to  
17 read:

18           776.012 Use of force in defense of person.—A person is  
19 justified in using force, except deadly force, against another  
20 when and to the extent that the person reasonably believes that  
21 such conduct is necessary to defend himself or herself or  
22 another against the other's imminent use of unlawful force.  
23 However, a person is justified in the use of deadly force and  
24 does not have a duty to retreat if:

25           ~~(1)~~ he or she reasonably believes that such force is  
26 necessary to prevent imminent death or great bodily harm to  
27 himself or herself or another or to prevent the imminent  
28 commission of a forcible felony; ~~or~~

29           ~~(2) Under those circumstances permitted pursuant to s.~~

12-00104-14

2014116\_\_

30 ~~776.013.~~

31 Section 3. Subsection (1) of section 776.032, Florida  
32 Statutes, is amended to read:

33 776.032 Immunity from criminal prosecution and civil action  
34 for justifiable use of force.—

35 (1) A person who uses force as permitted in s. 776.012, ~~s.~~  
36 ~~776.013,~~ or s. 776.031 is justified in using such force and is  
37 immune from criminal prosecution and civil action for the use of  
38 such force, unless the person against whom force was used is a  
39 law enforcement officer, as defined in s. 943.10(14), who was  
40 acting in the performance of his or her official duties and the  
41 officer identified himself or herself in accordance with any  
42 applicable law or the person using force knew or reasonably  
43 should have known that the person was a law enforcement officer.  
44 As used in this subsection, the term "criminal prosecution"  
45 includes arresting, detaining in custody, and charging or  
46 prosecuting the defendant.

47 Section 4. Subsection (1) of section 790.15, Florida  
48 Statutes, is amended to read:

49 790.15 Discharging firearm in public or on residential  
50 property.—

51 (1) Except as provided in subsection (2) or subsection (3),  
52 any person who knowingly discharges a firearm in any public  
53 place or on the right-of-way of any paved public road, highway,  
54 or street, who knowingly discharges any firearm over the right-  
55 of-way of any paved public road, highway, or street or over any  
56 occupied premises, or who recklessly or negligently discharges a  
57 firearm outdoors on any property used primarily as the site of a  
58 dwelling ~~as defined in s. 776.013~~ or zoned exclusively for

12-00104-14

2014116\_\_

59 residential use commits a misdemeanor of the first degree,  
60 punishable as provided in s. 775.082 or s. 775.083. This section  
61 does not apply to a person lawfully defending life or property  
62 or performing official duties requiring the discharge of a  
63 firearm or to a person discharging a firearm on public roads or  
64 properties expressly approved for hunting by the Fish and  
65 Wildlife Conservation Commission or Florida Forest Service. As  
66 used in this subsection, the term "dwelling" means a building or  
67 conveyance of any kind, including any attached porch, whether  
68 the building or conveyance is temporary or permanent, mobile or  
69 immobile, which has a roof over it, including a tent, and is  
70 designed to be occupied by people lodging therein at night.

71 Section 5. This act shall take effect upon becoming a law.