



219914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2014	.	
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The Committee on Criminal Justice (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 30.60, Florida Statutes, is amended to
read:

30.60 Establishment of neighborhood crime watch programs.-

(1) A county sheriff or municipal police department may
establish neighborhood crime watch programs within the county or
municipality. The participants of a neighborhood crime watch



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11 program shall include, but need not be limited to, residents of
12 the county or municipality and owners of businesses located
13 within the county or municipality.

14 (2) The county sheriff or municipal police department shall
15 issue reasonable guidelines for the operation of such programs.
16 The guidelines must include, but are not limited to, prohibiting
17 a neighborhood crime watch patrol participant, while on patrol,
18 from confronting or attempting to apprehend a person suspected
19 of improper or unlawful activity, subject, however, to those
20 circumstances in which a reasonable person would be permitted,
21 authorized, or expected to assist another person.

22 Section 2. Section 166.0485, Florida Statutes, is amended
23 to read:

24 166.0485 Establishment of neighborhood crime watch
25 programs.—

26 (1) A county sheriff or municipal police department may
27 establish neighborhood crime watch programs within the county or
28 municipality. The participants of a neighborhood crime watch
29 program shall include, but need not be limited to, residents of
30 the county or municipality and owners of businesses located
31 within the county or municipality.

32 (2) The county sheriff or municipal police department shall
33 issue reasonable guidelines for the operation of such programs.
34 The guidelines must include, but are not limited to, prohibiting
35 a neighborhood crime watch patrol participant, while on patrol,
36 from confronting or attempting to apprehend a person suspected
37 of improper or unlawful activity, subject, however, to those
38 circumstances in which a reasonable person would be permitted,
39 authorized, or expected to assist another person.



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40 Section 3. Present subsection (1) of section 776.032,
41 Florida Statutes, is amended, subsections (2) and (3) are
42 renumbered as subsections (3) and (4), respectively, and a new
43 subsection (2) is added to that section, to read:

44 776.032 Immunity from criminal prosecution and civil action
45 for justifiable use of force.—

46 (1) A person who uses force as permitted in s. 776.012, s.
47 776.013, or s. 776.031 is justified in using such force and is
48 immune from criminal prosecution and civil action by the person,
49 personal representative, or heirs of the person, against whom
50 force was used for the use of such force, unless the person
51 against whom force was used is a law enforcement officer, as
52 defined in s. 943.10(14), who was acting in the performance of
53 his or her official duties and the officer identified himself or
54 herself in accordance with any applicable law or the person
55 using force knew or reasonably should have known that the person
56 was a law enforcement officer. As used in this subsection, the
57 term "criminal prosecution" includes arresting, taking into
58 custody, or arresting, detaining in custody, and charging or
59 prosecuting the defendant. This subsection does not restrict a
60 law enforcement agency's authority and duty to fully and
61 completely investigate the use of force upon which an immunity
62 may be claimed or any event surrounding such use of force.

63 (2) A defendant is entitled to an evidentiary hearing on a
64 pretrial motion to dismiss an indictment or information by
65 making a prima facie showing of the justifiable use of force.
66 During the hearing, the state bears the burden of proving by a
67 preponderance of the evidence that the defendant's use of force
68 was not lawful. For purposes of the motion, the judge shall



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69 decide all factual disputes relating to the defendant's use of
70 force, but any factual findings are not established for the
71 purposes of any subsequent trial. The defendant's testimony is
72 not admissible in a subsequent hearing or trial except for the
73 purposes of impeachment. The denial of the defendant's motion to
74 dismiss or any factual findings at the hearing do not preclude
75 the defendant from raising any defense or presenting any
76 evidence at trial.

77 Section 4. Section 776.041, Florida Statutes, is amended to
78 read:

79 776.041 Use of force by aggressor.—The justifications
80 ~~justification~~ described in the preceding sections of this
81 chapter, including, but not limited to, the immunity provided
82 for in s. 776.032, are is not available to a person who:

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

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

87 (a) Such force is so great that the person reasonably
88 believes that he or she is in imminent danger of death or great
89 bodily harm and that he or she has exhausted every reasonable
90 means to escape such danger other than the use of force which is
91 likely to cause death or great bodily harm to the assailant; or

92 (b) In good faith, the person withdraws from physical
93 contact with the assailant and indicates clearly to the
94 assailant that he or she desires to withdraw and terminate the
95 use of force, but the assailant continues or resumes the use of
96 force.

97



98 For purposes of this subsection, provocation must include the
99 use of force or threat of force.

100 Section 5. Section 776.09, Florida Statutes, is created to
101 read:

102 776.09 Justifiable Use of Force; Legislative Intent.—The
103 use of force authorized by this chapter is not intended to
104 encourage vigilantism or acts of revenge, authorize the
105 initiation of a confrontation as a pretext to respond with
106 deadly force, or negate a duty to retreat for persons engaged in
107 unlawful mutual combat.

108 Section 6. This act shall take effect October 1, 2014.

111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113 Delete everything before the enacting clause
114 and insert:

115 A bill to be entitled
116 An act relating to the use of deadly force; amending
117 ss. 30.60 and 166.0485, F.S.; requiring the county
118 sheriff or municipal police department to issue
119 reasonable guidelines for the operation of
120 neighborhood crime watch programs; providing that the
121 guidelines are subject to reasonable exceptions;
122 amending s. 776.032, F.S.; providing that a person who
123 is justified in using force is immune from criminal
124 prosecution and civil action initiated by the person
125 against whom the force was used; revising the
126 definition of the term "criminal prosecution";



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127 clarifying that a law enforcement agency retains the
128 authority and duty to fully investigate the use of
129 force upon which an immunity may be claimed; providing
130 that during a pretrial immunity hearing, the state
131 bears the burden of proving by a preponderance of the
132 evidence that the defendant's use of force was not
133 lawful; amending s. 776.041, F.S.; providing that any
134 reason, including immunity, used by an aggressor to
135 justify the use of force is not available to the
136 aggressor under specified circumstances; providing
137 that provocation justifying the use of defensive force
138 must include the use of force or the threat of the use
139 of force; creating s. 776.09, F.S.; providing
140 legislative intent relating to the justifiable use of
141 force; providing an effective date.