

By Senator Bullard

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1 A bill to be entitled
2 An act relating to the use of deadly force; amending
3 s. 776.013, F.S.; limiting the application of the
4 stand your ground law to instances in which the
5 attacker commits an overt act that leads the person
6 who is attacked to believe that it is necessary to
7 meet force with force; removing references to
8 threatened use of force; deleting obsolete language;
9 amending s. 776.032, F.S.; removing references to
10 threatened use of force; providing that immunity from
11 civil and criminal liability for certain uses of
12 deadly force does not apply if the person injures a
13 child or bystander who is not affiliated with the
14 overt act; amending ss. 776.012 and 776.031, F.S.;
15 removing references to threatened use of force;
16 amending s. 790.15, F.S.; deleting an obsolete cross-
17 reference; defining the term "dwelling" as it relates
18 to discharging a firearm on residential property;
19 reenacting s. 790.25(5), F.S., relating to lawful
20 ownership, possession, and use of a firearm, to
21 incorporate amendments made to s. 776.012, F.S., in a
22 reference thereto; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 776.013, Florida Statutes, is amended to
27 read:

28 776.013 Self Home protection; use ~~or threatened use~~ of
29 deadly force; presumption of fear of death or great bodily

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30 harm.—

31 (1) A person is presumed to have held a reasonable fear of
32 imminent peril of death or great bodily harm to himself or
33 herself or another when using ~~or threatening to use~~ defensive
34 force that is intended or likely to cause death or great bodily
35 harm to another if:

36 (a) The person against whom the defensive force was used ~~or~~
37 ~~threatened~~ was in the process of unlawfully and forcefully
38 entering, or had unlawfully and forcibly entered, a place where
39 he or she has a right to be dwelling, residence, or occupied
40 vehicle, or if that person had removed or was attempting to
41 remove another against that person's will from a place where he
42 or she had a right to be the dwelling, residence, or occupied
43 vehicle; and

44 (b) The person who uses ~~or threatens to use~~ defensive force
45 knew or had reason to believe that an unlawful and forcible
46 entry or unlawful and forcible act was occurring or had
47 occurred.

48 (2) The presumption set forth in subsection (1) does not
49 apply if:

50 (a) The person against whom the defensive force is used ~~or~~
51 ~~threatened~~ is in a place where he or she has the right to be in
52 ~~or is a lawful resident of the dwelling, residence, or vehicle,~~
53 ~~such as an owner, lessee, or titleholder,~~ and there is not an
54 injunction for protection from domestic violence or a written
55 pretrial supervision order of no contact against that person; ~~or~~

56 (b) The person or persons sought to be removed is a child
57 or grandchild, or is otherwise in the lawful custody or under
58 the lawful guardianship of, the person against whom the

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59 defensive force is used ~~or threatened~~; or

60 (c) The person who uses ~~or threatens to use~~ defensive force
61 is engaged in a criminal activity ~~or is using the dwelling,~~
62 ~~residence, or occupied vehicle to further a criminal activity;~~
63 or

64 (d) The person against whom the defensive force is used ~~or~~
65 ~~threatened~~ is a law enforcement officer, as defined in s.
66 943.10(14), who enters or attempts to enter a place where he or
67 she has the right to be dwelling, residence, or vehicle in the
68 performance of his or her official duties and the officer
69 identified himself or herself in accordance with any applicable
70 law or the person using ~~or threatening to use~~ force knew or
71 reasonably should have known that the person entering or
72 attempting to enter was a law enforcement officer.

73 (3) A person who is not engaged in criminal activity and
74 who is attacked in a place where he or she has a right to be ~~his~~
75 ~~or her dwelling, residence, or vehicle~~ has no duty to retreat
76 and has the right to stand his or her ground and meet force with
77 use or threaten to use force, including deadly force, if, due to
78 an overt act, he or she reasonably believes that using such
79 force is necessary to prevent imminent death or great bodily
80 harm to himself or herself or another or to prevent the imminent
81 commission of a forcible felony ~~uses or threatens to use force~~
82 ~~in accordance with s. 776.012(1) or (2) or s. 776.031(1) or (2).~~

83 (4) A person who unlawfully and by force enters or attempts
84 to enter a place where he or she does not have a right to be
85 ~~person's dwelling, residence, or occupied vehicle~~ is presumed to
86 be doing so with the intent to commit an unlawful act involving
87 force or violence.

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88 ~~(5) As used in this section, the term:~~

89 ~~(a) "Dwelling" means a building or conveyance of any kind,~~
90 ~~including any attached porch, whether the building or conveyance~~
91 ~~is temporary or permanent, mobile or immobile, which has a roof~~
92 ~~over it, including a tent, and is designed to be occupied by~~
93 ~~people lodging therein at night.~~

94 ~~(b) "Residence" means a dwelling in which a person resides~~
95 ~~either temporarily or permanently or is visiting as an invited~~
96 ~~guest.~~

97 ~~(c) "Vehicle" means a conveyance of any kind, whether or~~
98 ~~not motorized, which is designed to transport people or~~
99 ~~property.~~

100 Section 2. Section 776.032, Florida Statutes, is amended to
101 read:

102 776.032 Immunity from criminal prosecution and civil action
103 for justifiable use ~~or threatened use~~ of force.-

104 (1) A person who uses ~~or threatens to use~~ force as
105 permitted in s. 776.012, s. 776.013, or s. 776.031 is justified
106 in using such force ~~conduct~~ and is immune from criminal
107 prosecution and civil action for the use ~~or threatened use~~ of
108 such force. However, this immunity does not apply if:

109 (a) A child or a bystander who is not affiliated with the
110 overt act is injured; or

111 (b) The ~~by the person, personal representative, or heirs of~~
112 ~~the person against whom the force was used or threatened, unless~~
113 ~~the person against whom force was used or threatened is a law~~
114 ~~enforcement officer, as defined in s. 943.10(14), who was acting~~
115 ~~in the performance of his or her official duties and the officer~~
116 ~~identified himself or herself in accordance with any applicable~~

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117 law or the person using ~~or threatening to use~~ force knew or
118 reasonably should have known that the person was a law
119 enforcement officer.

120
121 As used in this subsection, the term "criminal prosecution"
122 includes arresting, detaining in custody, and charging or
123 prosecuting the defendant.

124 (2) A law enforcement agency may use standard procedures
125 for investigating the use ~~or threatened use~~ of force as
126 described in subsection (1), but the agency may not arrest the
127 person for using ~~or threatening to use~~ force unless it
128 determines that there is probable cause that the force that was
129 used ~~or threatened~~ was unlawful.

130 (3) The court shall award reasonable attorney ~~attorney's~~
131 fees, court costs, compensation for loss of income, and all
132 expenses incurred by the defendant in defense of any civil
133 action brought by a plaintiff if the court finds that the
134 defendant is immune from prosecution as provided in subsection
135 (1).

136 Section 3. Section 776.012, Florida Statutes, is amended to
137 read:

138 776.012 Use ~~or threatened use~~ of force in defense of
139 person.—

140 (1) A person is justified in using ~~or threatening to use~~
141 force, except deadly force, against another when and to the
142 extent that the person reasonably believes that such conduct is
143 necessary to defend himself or herself or another against the
144 other's imminent use of unlawful force. A person who uses ~~or~~
145 ~~threatens to use~~ force in accordance with this subsection does

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146 not have a duty to retreat before using ~~or threatening to use~~
147 such force.

148 (2) A person is justified in using ~~or threatening to use~~
149 deadly force if he or she reasonably believes that using ~~or~~
150 ~~threatening to use~~ such force is necessary to prevent imminent
151 death or great bodily harm to himself or herself or another or
152 to prevent the imminent commission of a forcible felony. A
153 person who uses ~~or threatens to use~~ deadly force in accordance
154 with this subsection does not have a duty to retreat and has the
155 right to stand his or her ground if the person using ~~or~~
156 ~~threatening to use~~ the deadly force is not engaged in a criminal
157 activity and is in a place where he or she has a right to be.

158 Section 4. Section 776.031, Florida Statutes, is amended to
159 read:

160 776.031 Use ~~or threatened use~~ of force in defense of
161 property.—

162 (1) A person is justified in using ~~or threatening to use~~
163 force, except deadly force, against another when and to the
164 extent that the person reasonably believes that such conduct is
165 necessary to prevent or terminate the other's trespass on, or
166 other tortious or criminal interference with, either real
167 property other than a dwelling or personal property, lawfully in
168 his or her possession or in the possession of another who is a
169 member of his or her immediate family or household or of a
170 person whose property he or she has a legal duty to protect. A
171 person who uses ~~or threatens to use~~ force in accordance with
172 this subsection does not have a duty to retreat before using ~~or~~
173 ~~threatening to use~~ such force.

174 (2) A person is justified in using ~~or threatening to use~~

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175 deadly force only if he or she reasonably believes that such
176 conduct is necessary to prevent the imminent commission of a
177 forcible felony. A person who uses ~~or threatens to use~~ deadly
178 force in accordance with this subsection does not have a duty to
179 retreat and has the right to stand his or her ground if the
180 person using ~~or threatening to use~~ the deadly force is not
181 engaged in a criminal activity and is in a place where he or she
182 has a right to be.

183 Section 5. Subsection (1) of section 790.15, Florida
184 Statutes, is amended to read:

185 790.15 Discharging firearm in public or on residential
186 property.—

187 (1) Except as provided in subsection (2) or subsection (3),
188 a any person who knowingly discharges a firearm in any public
189 place or on the right-of-way of any paved public road, highway,
190 or street, who knowingly discharges a any firearm over the
191 right-of-way of any paved public road, highway, or street or
192 over any occupied premises, or who recklessly or negligently
193 discharges a firearm outdoors on ~~any~~ property used primarily as
194 the site of a dwelling ~~as defined in s. 776.013~~ or zoned
195 exclusively for residential use commits a misdemeanor of the
196 first degree, punishable as provided in s. 775.082 or s.
197 775.083. As used in this subsection, the term "dwelling" means a
198 building or conveyance of any kind, including an attached porch,
199 whether the building or conveyance is temporary or permanent,
200 mobile or immobile, which has a roof over it, including a tent,
201 and is designed to be occupied by people lodging therein at
202 night. This section does not apply to a person lawfully
203 defending life or property or performing official duties

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204 requiring the discharge of a firearm or to a person discharging
205 a firearm on public roads or properties expressly approved for
206 hunting by the Fish and Wildlife Conservation Commission or
207 Florida Forest Service.

208 Section 6. For the purpose of incorporating the amendment
209 made by this act to section 776.012, Florida Statutes, in a
210 reference thereto, subsection (5) of section 790.25, Florida
211 Statutes, is reenacted to read:

212 790.25 Lawful ownership, possession, and use of firearms
213 and other weapons.—

214 (5) POSSESSION IN PRIVATE CONVEYANCE.—Notwithstanding
215 subsection (2), it is lawful and is not a violation of s. 790.01
216 for a person 18 years of age or older to possess a concealed
217 firearm or other weapon for self-defense or other lawful purpose
218 within the interior of a private conveyance, without a license,
219 if the firearm or other weapon is securely encased or is
220 otherwise not readily accessible for immediate use. Nothing
221 herein contained prohibits the carrying of a legal firearm other
222 than a handgun anywhere in a private conveyance when such
223 firearm is being carried for a lawful use. Nothing herein
224 contained shall be construed to authorize the carrying of a
225 concealed firearm or other weapon on the person. This subsection
226 shall be liberally construed in favor of the lawful use,
227 ownership, and possession of firearms and other weapons,
228 including lawful self-defense as provided in s. 776.012.

229 Section 7. This act shall take effect July 1, 2015.