

By the Committees on Rules; and Criminal Justice; and Senators Bradley, Dean, Evers, Bean, and Simpson

595-01811-16

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1 A bill to be entitled

2 An act relating to justifiable use or threatened use
3 of defensive force; amending s. 776.013, F.S;
4 providing that a person who is in his or her dwelling,
5 residence, or vehicle has no duty to retreat and has
6 the right to use or threaten to use force if he or she
7 reasonably believes that using or threatening to use
8 such force is necessary to prevent imminent death or
9 great bodily harm or the commission of a forcible
10 felony; amending s. 776.032, F.S.; revising the
11 requirements for the court to award certain fees and
12 costs; requiring the burden of proof by clear and
13 convincing evidence in a criminal prosecution to be on
14 the party seeking to overcome the immunity claim under
15 certain circumstances; providing an effective date.

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

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19 Section 1. Subsection (3) of section 776.013 is amended to
20 read:

21 776.013 Home protection; use or threatened use of deadly
22 force; presumption of fear of death or great bodily harm.—

23 (3) A person who is ~~attacked~~ in his or her dwelling,
24 residence, or vehicle has no duty to retreat and has the right
25 to stand his or her ground and use or threaten to use force,
26 including deadly force, if he or she reasonably believes that
27 using or threatening to use such force is necessary to prevent
28 imminent death or great bodily harm to himself or herself or
29 another, or to prevent the commission of a forcible felony ~~uses~~
30 ~~or threatens to use force in accordance with s. 776.012(1) or~~
31 ~~(2) or s. 776.031(1) or (2).~~

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32 Section 2. Subsection (1) of section 776.032, Florida
33 Statutes, is republished, subsection (3) of that section is
34 amended, and subsection (4) is added to that section, to read:

35 776.032 Immunity from criminal prosecution and civil action
36 for justifiable use or threatened use of force.—

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

52 (3) The court shall award reasonable attorney ~~attorney's~~
53 fees, court costs, compensation for loss of income, and all
54 expenses incurred by the defendant in defense of any civil
55 action brought by a plaintiff if the court finds that the
56 defendant is immune from liability ~~prosecution~~ as provided in
57 subsection (1).

58 (4) In a criminal prosecution, once a prima facie claim of
59 self-defense immunity from criminal prosecution has been raised
60 by the defendant at a pretrial immunity hearing, the burden of

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61 proof by clear and convincing evidence shall be on the party
62 seeking to overcome the immunity from criminal prosecution
63 provided in subsection (1).

64 Section 3. This act shall take effect upon becoming a law.