

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Judiciary

[2017s01052.hms]

BILL: CS/CS/SB 1052
INTRODUCER: Senator Simmons
SUBJECT: Justifiable Use of Force
DATE: April 28, 2017

I. Amendments Contained in Message:

House Amendment 1 – 936359 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 addresses the drafting errors or inconsistencies in existing s. 776.013(3), F.S., in different way than in CS/CS/SB 1052. However, the effect of the House amendment and the Senate bill are substantially the same.

The drafting error or inconsistency in existing law implies that a person who is in his or her dwelling or residence must be physically attacked before he or she has the right to act in self-defense. The drafting issues in existing law might also be read to require a person to flee from his or her home before acting in self-defense if the person is engaged in criminal activity. However, a person's home has historically been viewed as his or her castle or a place of refuge from which no retreat has been required.

The House amendment and the Senate bill both eliminate language implying that a person in his or her dwelling or residence must suffer a physical attack before acting in self-defense. Additionally, the House amendment and Senate bill both eliminate language that might require a person to flee from his or her home before acting in self-defense.

The replacement language in the House amendment and Senate bill govern the use of defensive force against a person who has not unlawfully or forcibly entered a dwelling or residence, such as a co-occupant or guest. In these circumstances, the House amendment provides that the general standard for using or threatening to use deadly or nondeadly force outside a dwelling or residence applies. However, the Senate bill sets forth the general standard for using or threatening to use deadly force, but the structure of the bill and existing law imply that the standard for using or threatening to use nondeadly force remains applicable.