

2017128e1

1                   A bill to be entitled  
2           An act relating to self-defense immunity; amending s.  
3           776.032, F.S.; providing that the state has the burden  
4           of proving that a defendant is not immune from  
5           prosecution under certain circumstances; providing an  
6           effective date.

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

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10           Section 1. Subsection (1) of section 776.032, Florida  
11           Statutes, is republished, and subsection (4) is added to that  
12           section, to read:

13           776.032 Immunity from criminal prosecution and civil action  
14           for justifiable use or threatened use of force.—

15           (1) A person who uses or threatens to use force as  
16           permitted in s. 776.012, s. 776.013, or s. 776.031 is justified  
17           in such conduct and is immune from criminal prosecution and  
18           civil action for the use or threatened use of such force by the  
19           person, personal representative, or heirs of the person against  
20           whom the force was used or threatened, unless the person against  
21           whom force was used or threatened is a law enforcement officer,  
22           as defined in s. 943.10(14), who was acting in the performance  
23           of his or her official duties and the officer identified himself  
24           or herself in accordance with any applicable law or the person  
25           using or threatening to use force knew or reasonably should have  
26           known that the person was a law enforcement officer. As used in  
27           this subsection, the term "criminal prosecution" includes  
28           arresting, detaining in custody, and charging or prosecuting the  
29           defendant.

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30       (4) In a criminal prosecution, a defendant may file a  
31 pretrial motion claiming the right to the immunity from  
32 prosecution set forth in subsection (1). The motion must clearly  
33 state the reasons that the defendant is immune and allege the  
34 facts on which the claim of immunity is based. The court shall  
35 grant the motion after a pretrial hearing unless the state  
36 proves beyond a reasonable doubt that the defendant is not  
37 immune.

38       Section 2. This act shall take effect upon becoming a law.