

By Senator Bracy

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1 A bill to be entitled
2 An act relating to the use of force by law enforcement
3 officers; amending s. 776.05, F.S.; requiring that a
4 court, in a case involving the use of force by a law
5 enforcement officer in making an arrest, make a
6 finding regarding the reasonableness of the officer's
7 actions; requiring that the court consider certain
8 factors in determining whether the use of force was
9 justifiable; providing an effective date.

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

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13 Section 1. Section 776.05, Florida Statutes, is amended to
14 read:

15 776.05 Law enforcement officers; use of force in making an
16 arrest.—

17 (1) A law enforcement officer, or any person whom the
18 officer has summoned or directed to assist him or her, need not
19 retreat or desist from efforts to make a lawful arrest because
20 of resistance or threatened resistance to the arrest. The
21 officer is justified in the use of any force:

22 (a)~~(1)~~ Which he or she reasonably believes to be necessary
23 to defend himself or herself or another from bodily harm while
24 making the arrest;

25 (b)~~(2)~~ When necessarily committed in retaking felons who
26 have escaped; or

27 (c)~~(3)~~ When necessarily committed in arresting felons
28 fleeing from justice. However, this paragraph does subsection
29 ~~shall~~ not constitute a defense in any civil action for damages

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30 brought for the wrongful use of deadly force unless the use of
31 deadly force was necessary to prevent the arrest from being
32 defeated by such flight and, when feasible, some warning had
33 been given, and:

34 1.~~(a)~~ The officer reasonably believes that the fleeing
35 felon poses a threat of death or serious physical harm to the
36 officer or others; or

37 2.~~(b)~~ The officer reasonably believes that the fleeing
38 felon has committed a crime involving the infliction or
39 threatened infliction of serious physical harm to another
40 person.

41 (2) If an officer is criminally charged with an offense in
42 connection with using force in making an arrest, the court must
43 find, and the court must instruct the jury accordingly, that the
44 officer's actions were reasonable under the totality of the
45 circumstances in determining that the officer was justified in
46 using force as authorized under subsection (1). In making that
47 determination, the court must consider whether the officer
48 engaged in de-escalation measures before using force and whether
49 the officer's conduct before using force increased the risk that
50 force would be used.

51 Section 2. This act shall take effect October 1, 2021.