A bill to be entitled
An act relating to defense of life, home, and
property; creating s. 776.001, F.S.; providing
legislative finding and intent; providing that the
defensive display of a weapon or firearm, including
the discharge of a firearm for the purpose of a
warning shot, does not constitute the use of deadly
force; providing immunity from prosecution for persons
acting in defense of life, home, and property from
violent attack or the threat of violent attack through
certain displays of or uses of force; creating s.
776.0011, F.S.; providing definitions; creating s.
776.033, F.S.; providing for the justifiable defensive
display of a firearm or weapon in certain
circumstances; amending s. 776.06, F.S.; limiting a
provision authorizing use of deadly force by law
enforcement or correctional officers; creating s.
775.0878, F.S.; providing an exemption from minimum
sentence requirements related to use of a weapon or
firearm for persons acting in self-defense or defense
of others; authorizing a departure from minimum
sentence requirements related to use of a weapon or
firearm for persons convicted of certain offenses who
meet specified requirements; providing an effective
date.
WHEREAS, the intent of mandatory minimum sentencing requirements is to deter crime without discouraging the lawful defense of life, home, and property, and

WHEREAS, the defensive display of a means of self-defense does not constitute the application of lethal force and is justified in defense of life, home, and property, and

WHEREAS, people acting to lawfully defend themselves are, at that point, already victims of crime, NOW, THEREFORE,

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

Section 1. Section 776.001, Florida Statutes, is created to read:

776.001 Legislative findings and intent; defensive display of weapon or firearm; defense of life, home, and property.—
(1) The Legislature finds that it is unreasonable to prosecute a person for acting in a defensive manner. The Legislature intends to clarify that the defensive display of a weapon or firearm, including the discharge of a firearm for the purpose of a warning shot, does not constitute the use of deadly force and is a valid method of preventing or terminating an imminent or actual violent criminal attack.

(2) It is the intent of the Legislature to immunize a person from prosecution who acts in defense of life, home, and property from violent attack or the threat of violent attack by:
(a) Defensively displaying a weapon or firearm, if the
person reasonably believes that it is necessary to warn an attacker to prevent or terminate an imminent or actual violent criminal attack, including by the firing of a warning shot;

(b) Using force, if the person reasonably believes that it is necessary to prevent or terminate an imminent or actual violent criminal attack; or

(c) Using deadly force, if the person reasonably believes that it is necessary to prevent death or great bodily harm or to prevent or terminate the imminent or actual commission of a forcible felony.

Section 2. Section 776.0011, Florida Statutes, is created to read:

776.0011 Definitions.—As used in this chapter, the term:

1) "Defensive display" means the overt presentation of a weapon or the overt presentation, use, or discharge of a firearm, so long as the purpose of such action is limited to creating an apprehension that a person will, if necessary:

(a) Use force in lawful defense of life, home, and property;

(b) Lawfully defend against imminent or actual unlawful violence to a person; or

(c) Use force to effect a lawful arrest.

2) "Unlawful activity" means any or all of the following:

(a) Being engaged in the commission of a crime involving the use or threat of violence;

(b) The illegal distribution of a controlled substance; or
(c) Use of a dwelling, residence, or occupied vehicle to further activities described in paragraph (a) or paragraph (b).

(3) "Use of deadly force" is not the lawful carrying or possession of a weapon or firearm, but means the application of any physical force described in subsection (4) which is reasonably known to be likely to cause death or great bodily harm. The term "use of deadly force" does not include a threat to cause death or great bodily harm, including, but not limited to, a defensive display, made when a person reasonably believes that such conduct is necessary to defend themselves or another against the actual or imminent use of unlawful force or to prevent or terminate the imminent or actual commission of a forcible felony.

(4) "Use of force" is not the lawful carrying or possession of a weapon or firearm, but means any or all of the following directed at or upon another person or thing:

(a) Words or actions that reasonably convey the threat of force, including, but not limited to, threats to cause death or great bodily harm to a person;

(b) The presentation or display of a means of force that reasonably conveys the threat of force; or

(c) The application of physical force, including application by a weapon or firearm or through the actions of another.

Section 3. Section 776.033, Florida Statutes, is created to read:
776.033  Defensive display of a firearm or weapon.—

(1)(a) For the purposes of this section, the term "defensive display of a firearm or weapon" includes:

1. Verbally informing another person that the person possesses or has available a firearm or weapon.

2. Exposing or displaying a firearm or weapon in a manner that a reasonable person would understand was meant to convey that it would be used, if necessary, to protect against the commission of a forcible felony, the use or attempted use of unlawful force, or unlawful deadly force.

3. Overtly placing the person's hand on a firearm or weapon while the firearm or weapon is contained in a pocket, purse, holster, or other means of containment or transport.

(b) For the purposes of this section, the term "defensive display of a firearm or weapon" does not include the mere carrying of a firearm or weapon in any manner not prohibited by law.

(2) A person is justified in the defensive display of a firearm or weapon when the person reasonably believes that such conduct is necessary to defend themselves or another against the actual or imminent use of unlawful force or to prevent or terminate the imminent or actual commission of a forcible felony. A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

(3) This section does not apply to a person who:

(a) Intentionally provokes another person to use or
(b) Is attempting to commit, committing, or escaping immediately after the commission of a forcible felony.

(4) This section does not require the defensive display of a firearm or weapon before the use of force or the threat of force by a person who is otherwise justified in the use or threatened use of force.

Section 4. Subsection (1) of section 776.06, Florida Statutes, is amended to read:

776.06 Deadly force by law enforcement or correctional officers.—

(1) As applied to a law enforcement officer or correctional officer who acts during and within the scope of his or her official duties, the term "deadly force" means force that is likely to cause death or great bodily harm and includes, but is not limited to:

(a) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

(b) The firing of a firearm at a vehicle in which the person to be arrested is riding.

Section 5. Section 775.0878, Florida Statutes, is created to read:

775.0878 Exemption from minimum sentence requirement.—

(1) The Legislature finds that s. 775.087 is not intended to apply to persons who are defending or attempting to defend
themselves or others from violent criminal attack. The Legislature intends to establish that s. 775.087 does not apply to persons who act in self-defense or defense of others and that those persons are not subject to sentencing under s. 775.087.

(2) Notwithstanding any other provision of law, when sentencing a defendant convicted of aggravated assault or aggravated battery, the sentencing court shall depart downward from the mandatory minimum sentence prescribed in s. 775.087(2), provided that the sentencing or trial court finds the following by a preponderance of the evidence:

(a) The defendant did not act in the furtherance of another criminal act;

(b) The defendant had established a prima facie case at trial, during any proceeding, by stipulation, or at any stage of the investigation that the act alleged was committed with defensive intent; and

(c) The mandatory minimum sentence is not compelled for the protection of the public.

(3) The state may appeal a departure from a mandatory minimum sentence under this section.

Section 6. This act shall take effect upon becoming a law.