

HB 245

2017

1                   A bill to be entitled  
2           An act relating to self-defense immunity; amending s.  
3           776.032, F.S.; requiring that the burden of proof in a  
4           criminal prosecution be on the party seeking to  
5           overcome the immunity claim under certain  
6           circumstances; providing an 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  
14           action 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

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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.

30 |       (4) In a criminal prosecution, once a prima facie claim of  
31 | self-defense immunity from criminal prosecution has been raised  
32 | by the defendant at a pretrial immunity hearing, the burden of  
33 | proof beyond a reasonable doubt is on the party seeking to  
34 | overcome the immunity from criminal prosecution provided in  
35 | subsection (1).

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