



185450

LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: FAV | . | |
| 12/07/2015 | . | |
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The Committee on Rules (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 776.032, Florida Statutes, is amended to
read:

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

(1) A person who uses or threatens to use force as
permitted in s. 776.012, s. 776.013, or s. 776.031 is justified



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

25 (2) A law enforcement agency may use standard procedures
26 for investigating the use or threatened use of force as
27 described in subsection (1), but the agency may not arrest the
28 person for using or threatening to use force unless it
29 determines that there is probable cause that the force that was
30 used or threatened was unlawful.

31 (3) The court shall award reasonable attorney's fees, court
32 costs, compensation for loss of income, and all expenses
33 incurred by the defendant in defense of any civil action brought
34 by a plaintiff if the court finds that the defendant is immune
35 from liability prosecution as provided in subsection (1).

36 (4) In a criminal prosecution, once a prima facie claim of
37 self-defense immunity from criminal prosecution has been raised
38 by the defendant at a pre-trial immunity hearing, the burden of
39 proof by clear and convincing evidence shall be on the party
40 seeking to overcome the immunity from criminal prosecution



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41 provided in subsection (1).

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

43

44 ===== T I T L E A M E N D M E N T =====

45 And the title is amended as follows:

46 Delete everything before the enacting clause

47 and insert:

48 A bill to be entitled

49 An act relating to justifiable use or threatened use

50 of defensive force; amending s. 776.032, F.S.;

51 providing that once a defendant raises a prima facie

52 claim of self-defense immunity at a pre-trial hearing,

53 the burden is on the prosecuting authority to overcome

54 the immunity by clear and convincing evidence;

55 providing an effective date.