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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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. Subsection (2) of section 776.012, Florida
Statutes, is amended to read:

776.012 Use or threatened use of force in defense of
person.—

(1) A person is justified in using or threatening to use
force, except deadly force, against another when and to the
extent that the person reasonably believes that such conduct is



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12 necessary to defend himself or herself or another against the
13 other's imminent use of unlawful force. A person who uses or
14 threatens to use force in accordance with this subsection does
15 not have a duty to retreat before using or threatening to use
16 such force.

17 (2) A person is justified in using or threatening to use
18 deadly force if he or she reasonably believes that using or
19 threatening to use such force is necessary to prevent imminent
20 death or great bodily harm to himself or herself or another or
21 to prevent the imminent commission of a forcible felony. A
22 person who is attacked and uses or threatens to use deadly force
23 in accordance with this subsection does not have a duty to
24 retreat and has the right to stand his or her ground if such ~~the~~
25 person using or threatening to use the deadly force is not
26 engaged in a criminal activity and is in a place where he or she
27 has a right to be.

28 Section 2. Subsection (3) of section 776.013 is amended to
29 read:

30 776.013 Home protection; use or threatened use of deadly
31 force; presumption of fear of death or great bodily harm.—

32 (1) A person is presumed to have held a reasonable fear of
33 imminent peril of death or great bodily harm to himself or
34 herself or another when using or threatening to use defensive
35 force that is intended or likely to cause death or great bodily
36 harm to another if:

37 (a) The person against whom the defensive force was used or
38 threatened was in the process of unlawfully and forcefully
39 entering, or had unlawfully and forcibly entered, a dwelling,
40 residence, or occupied vehicle, or if that person had removed or



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41 was attempting to remove another against that person's will from
42 the dwelling, residence, or occupied vehicle; and

43 (b) The person who uses or threatens to use defensive force
44 knew or had reason to believe that an unlawful and forcible
45 entry or unlawful and forcible act was occurring or had
46 occurred.

47 (2) The presumption set forth in subsection (1) does not
48 apply if:

49 (a) The person against whom the defensive force is used or
50 threatened has the right to be in or is a lawful resident of the
51 dwelling, residence, or vehicle, such as an owner, lessee, or
52 titleholder, and there is not an injunction for protection from
53 domestic violence or a written pretrial supervision order of no
54 contact against that person; or

55 (b) The person or persons sought to be removed is a child
56 or grandchild, or is otherwise in the lawful custody or under
57 the lawful guardianship of, the person against whom the
58 defensive force is used or threatened; or

59 (c) The person who uses or threatens to use defensive force
60 is engaged in a criminal activity or is using the dwelling,
61 residence, or occupied vehicle to further a criminal activity;
62 or

63 (d) The person against whom the defensive force is used or
64 threatened is a law enforcement officer, as defined in s.
65 943.10(14), who enters or attempts to enter a dwelling,
66 residence, or vehicle in the performance of his or her official
67 duties and the officer identified himself or herself in
68 accordance with any applicable law or the person using or
69 threatening to use force knew or reasonably should have known



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70 that the person entering or attempting to enter was a law
71 enforcement officer.

72 (3) A person who is ~~attacked~~ in his or her dwelling,
73 residence, or vehicle has no duty to retreat and has the right
74 to stand his or her ground and use or threaten to use force,
75 including deadly force, if he or she reasonably believes that
76 using or threatening to use such force is necessary to prevent
77 imminent death or great bodily harm to himself or herself or
78 another, or to prevent the commission of a forcible felony ~~uses~~
79 ~~or threatens to use force in accordance with s. 776.012(1) or~~
80 ~~(2) or s. 776.031(1) or (2).~~

81 (4) A person who unlawfully and by force enters or attempts
82 to enter a person's dwelling, residence, or occupied vehicle is
83 presumed to be doing so with the intent to commit an unlawful
84 act involving force or violence.

85 (5) As used in this section, the term:

86 (a) "Dwelling" means a building or conveyance of any kind,
87 including any attached porch, whether the building or conveyance
88 is temporary or permanent, mobile or immobile, which has a roof
89 over it, including a tent, and is designed to be occupied by
90 people lodging therein at night.

91 (b) "Residence" means a dwelling in which a person resides
92 either temporarily or permanently or is visiting as an invited
93 guest.

94 (c) "Vehicle" means a conveyance of any kind, whether or
95 not motorized, which is designed to transport people or
96 property.

97 Section 3. Subsection (2) of section 776.031, Florida
98 Statutes, is amended to read:



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99 776.031 Use or threatened use of force in defense of
100 property.—

101 (1) A person is justified in using or threatening to use
102 force, except deadly force, against another when and to the
103 extent that the person reasonably believes that such conduct is
104 necessary to prevent or terminate the other's trespass on, or
105 other tortious or criminal interference with, either real
106 property other than a dwelling or personal property, lawfully in
107 his or her possession or in the possession of another who is a
108 member of his or her immediate family or household or of a
109 person whose property he or she has a legal duty to protect. A
110 person who uses or threatens to use force in accordance with
111 this subsection does not have a duty to retreat before using or
112 threatening to use such force.

113 (2) A person is justified in using or threatening to use
114 deadly force only if he or she reasonably believes that such
115 conduct is necessary to prevent the imminent commission of a
116 forcible felony. A person who is attacked and uses or threatens
117 to use deadly force in accordance with this subsection does not
118 have a duty to retreat and has the right to stand his or her
119 ground if the person using or threatening to use the deadly
120 force is not engaged in a criminal activity and is in a place
121 where he or she has a right to be.

122 Section 4. Section 776.032, Florida Statutes, is amended to
123 read:

124 776.032 Immunity from criminal prosecution and civil action
125 for justifiable use or threatened use of force.—

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



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128 in such conduct and is immune from criminal prosecution and
129 civil action for the use or threatened use of such force by the
130 person, personal representative, or heirs of the person against
131 whom the force was used or threatened, unless the person against
132 whom force was used or threatened is a law enforcement officer,
133 as defined in s. 943.10(14), who was acting in the performance
134 of his or her official duties and the officer identified himself
135 or herself in accordance with any applicable law or the person
136 using or threatening to use force knew or reasonably should have
137 known that the person was a law enforcement officer. As used in
138 this subsection, the term "criminal prosecution" includes
139 arresting, detaining in custody, and charging or prosecuting the
140 defendant.

141 (2) A law enforcement agency may use standard procedures
142 for investigating the use or threatened use of force as
143 described in subsection (1), but the agency may not arrest the
144 person for using or threatening to use force unless it
145 determines that there is probable cause that the force that was
146 used or threatened was unlawful.

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

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



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157 provided in subsection (1).

158 Section 5. This act shall take effect upon becoming a law.

159
160 ===== T I T L E A M E N D M E N T =====

161 And the title is amended as follows:

162 Delete everything before the enacting clause
163 and insert:

164 A bill to be entitled
165 An act relating to justifiable use or threatened use
166 of defensive force; amending s. 776.012, F.S.;
167 providing that a law-abiding person who is attacked
168 has no duty to retreat and may use or threaten to use
169 necessary force to prevent imminent death or great
170 bodily harm to self or another, or the imminent
171 commission of a forcible felony; amending s. 776.013,
172 F.S; providing that a person in his or her dwelling,
173 residence, or vehicle has no duty to retreat and may
174 use necessary force, upon reasonable belief that such
175 force is necessary to prevent imminent death, great
176 bodily harm, or the imminent commission of a forcible
177 felony; amending s. 776.031, F.S.; providing that a
178 law-abiding person who is in a place where he or she
179 has a right to be and who is attacked may only use or
180 threaten to use deadly force if he or she reasonably
181 believes it is necessary to prevent the imminent
182 commission of a forcible felony; amending s. 776.032,
183 F.S.; providing that once a defendant raises a prima
184 facie claim of self-defense immunity at a pre-trial
185 hearing, the burden is on the prosecuting authority to



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overcome the immunity by clear and convincing
evidence; providing an effective date.