

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Judiciary

[2017s00128.hms]

BILL: CS/SB 128, 1st Eng.
INTRODUCER: Judiciary Committee and Senator Bradley and others
SUBJECT: Self-defense Immunity
DATE: April 25, 2017

I. Amendments Contained in Message:

House Amendment 1 – 833391 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 provides that once a defendant raises a prima facie claim of self-defense immunity from prosecution at a pretrial immunity hearing, the burden of proof by clear and convincing evidence is on the state to overcome the immunity from criminal prosecution. The requirement that a defendant present a prima facie claim means that the defendant must introduce as evidence facts supporting the claim of a justifiable use of force.

In contrast to the House amendment, the Engrossed Senate bill entitles a defendant to an immunity hearing once he or she files a motion that states the reasons the defendant is immune from prosecution and which also alleges the facts on which the claim of immunity is based.

Similar to the House amendment, the original version of the Senate bill imposed a burden on the defendant at a pretrial immunity hearing to present a “prima facie claim of self-defense immunity from criminal prosecution.” However, the Senate bill has consistently required the state to prove the defendant’s lack of immunity from prosecution beyond a reasonable doubt.