

2017128e1

1 A bill to be entitled
2 An act relating to self-defense immunity; amending s.
3 776.032, F.S.; providing that the state has the burden
4 of proving that a defendant is not immune from
5 prosecution under certain circumstances; providing an
6 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 action
14 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
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.

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30 (4) In a criminal prosecution, a defendant may file a
31 pretrial motion claiming the right to the immunity from
32 prosecution set forth in subsection (1). The motion must clearly
33 state the reasons that the defendant is immune and allege the
34 facts on which the claim of immunity is based. The court shall
35 grant the motion after a pretrial hearing unless the state
36 proves beyond a reasonable doubt that the defendant is not
37 immune.

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