CHAMBER ACTION

Representative Mercado offered the following:

Amendment (with title amendment)

Between lines 647 and 648, insert:

Section 10. 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 in such conduct and is immune from criminal prosecution and civil action for the use or threatened use of such force by the person, personal representative, or heirs of the person against
whom the force was used or threatened, unless the person against whom force was used or threatened is a law enforcement officer, as defined in s. 943.10(14), who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term "criminal prosecution" means includes arresting, detaining in custody, and charging or prosecuting the defendant.

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

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

(4) In a criminal prosecution, once a prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial immunity hearing, the burden of
proof by clear and convincing evidence is on the party seeking
to overcome the immunity from criminal prosecution provided in
subsection (1).

Section 11. Section 776.041, Florida Statutes, is amended
to read:

776.041 Use or threatened use of force by aggressor.—The
justification described in the preceding sections of this
chapter is not available to a person who:

(1) Is attempting to commit, is committing, or is escaping
after the commission of, a forcible felony; or

(2) Initially provokes the use or threatened use of force
against himself or herself; unless:

(a) Such force or threat of force is so great that the
person reasonably believes that he or she is in imminent danger
of death or great bodily harm and that he or she has exhausted
every reasonable means to escape such danger other than the use
or threatened use of force which is likely to cause death or
great bodily harm to the assailant; or

(b) In good faith, the person withdraws from physical
contact with the assailant and indicates clearly to the
assailant that he or she desires to withdraw and terminate the
use or threatened use of force, but the assailant continues or
resumes the use or threatened use of force.

(3) Leaves a place of safety to place himself or herself
in proximity to a situation likely to result in a use of force;
(4) Pursues an alleged trespasser or assailant after the alleged trespasser or assailant has withdrawn or when the incident that gave rise to a previous confrontation has ended.

Section 12. Section 776.09, Florida Statutes, is created to read:

776.09 Statewide system for reporting, tracking, and disseminating information regarding self-defense claims and claim resolutions.—

(1) The Legislature finds that transparency regarding the outcomes of investigations into claims regarding the justifiable use of force is vital to the integrity of this state's law enforcement function and to the public's understanding of incidents and cases involving any alleged justifiable use of force. Therefore, it is in the best interests of the residents of this state to establish a statewide database to track all justifiable use of force claims made in this state, including decisions on whether to arrest or prosecute persons who claimed to have justifiably used force as permitted in this chapter and the reasons for the decisions.

(2) The Department of Law Enforcement shall collect, process, maintain, and disseminate information and data on all incidents concerning the alleged justifiable use of force in this state. The department shall annually report to the Legislature the information and data in a format and manner...
determined by the Legislature.

(3) Each law enforcement agency within the state shall monthly report to the department all incidents and cases in which a claim regarding the justifiable use of force is raised, from the time an initial claim is raised through the full resolution of the claim or case.

Title Amendment

Remove line 53 and insert:

availability of services; amending s. 776.031, F.S.; authorizing a person to use force, except deadly force, in the defense of property; authorizing a person to use deadly force, in the defense of property, to prevent the imminent commission of a forcible felony; providing that a person does not have a duty to retreat if the person is in a certain place; amending s. 776.032, F.S.; revising the definition of the term "criminal prosecution"; requiring, rather than authorizing, a law enforcement agency to investigate the use of force under certain circumstances; deleting the provision that prohibits a law enforcement agency from arresting a person for using force under certain circumstances; authorizing, rather than requiring, the court to award attorney
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fees, court costs, and other expenses to a defendant who used force under certain circumstances; amending s. 776.041, F.S.; deleting the provisions that make justifiable use of force available to an aggressor who initially provokes the use of force against himself or herself; providing additional circumstances in which justifiable use of force is not available; creating s. 776.09, F.S.; providing legislative findings; directing the Department of Law Enforcement to collect, process, maintain, and disseminate information and data on all incidents concerning the alleged justifiable use of force in this state; requiring the department to annually report to the Legislature the information and data in a format and manner determined by the Legislature; requiring each law enforcement agency within the state to monthly report to the department all incidents and cases in which a claim regarding the justifiable use of force is raised; creating s. 790.064, F.S.