

1 A bill to be entitled
2 An act relating to the use of deadly force; amending
3 s. 776.013, F.S.; limiting the application of the
4 stand your ground law to instances in which the
5 attacker commits an overt act that leads the person
6 who is attacked to believe that it is necessary to
7 meet force with force; removing references to
8 threatened use of force; deleting obsolete language;
9 amending s. 776.032, F.S.; removing references to
10 threatened use of force; providing that immunity from
11 civil and criminal liability for certain uses of
12 deadly force does not apply if the person injures a
13 child or bystander who is not affiliated with the
14 overt act; amending ss. 776.012 and 776.031, F.S.;
15 removing references to threatened use of force;;
16 amending s. 790.15, F.S.; deleting an obsolete cross-
17 reference; defining the term "dwelling" as it relates
18 to discharging a firearm on residential property;
19 reenacting s. 790.25(5), F.S., relating to lawful
20 ownership, possession, and use of a firearm, to
21 incorporate amendments made to s. 776.012, F.S., in a
22 reference thereto; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 776.013, Florida Statutes, is amended

27 | to read:

28 | 776.013 Self Home protection; use ~~or threatened~~ use of
 29 | deadly force; presumption of fear of death or great bodily
 30 | harm.—

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

36 | (a) The person against whom the defensive force was used
 37 | ~~or threatened~~ was in the process of unlawfully and forcefully
 38 | entering, or had unlawfully and forcibly entered, a place where
 39 | he or she has a right to be ~~dwelling, residence, or occupied~~
 40 | ~~vehicle~~, or if that person had removed or was attempting to
 41 | remove another against that person's will from a place where he
 42 | or she had a right to be ~~the dwelling, residence, or occupied~~
 43 | ~~vehicle~~; and

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

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

50 | (a) The person against whom the defensive force is used ~~or~~
 51 | ~~threatened~~ is in a place where he or she has the right to be in
 52 | ~~or is a lawful resident of the dwelling, residence, or vehicle,~~

53 ~~such as an owner, lessee, or titleholder,~~ and there is not an
 54 injunction for protection from domestic violence or a written
 55 pretrial supervision order of no contact against that person; ~~or~~

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

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

64 (d) The person against whom the defensive force is used ~~or~~
 65 ~~threatened~~ is a law enforcement officer, as defined in s.
 66 943.10(14), who enters or attempts to enter a place where he or
 67 she has the right to be ~~dwelling, residence, or vehicle~~ in the
 68 performance of his or her official duties and the officer
 69 identified himself or herself in accordance with any applicable
 70 law or the person using ~~or threatening to use~~ force knew or
 71 reasonably should have known that the person entering or
 72 attempting to enter was a law enforcement officer.

73 (3) A person who is not engaged in criminal activity and
 74 who is attacked in a place where he or she has a right to be ~~his~~
 75 ~~or her dwelling, residence, or vehicle~~ has no duty to retreat
 76 and has the right to stand his or her ground and meet force with
 77 ~~use or threaten to use~~ force, including deadly force, if, due to
 78 an overt act, he or she reasonably believes that using such

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79 force is necessary to prevent imminent death or great bodily
80 harm to himself or herself or another or to prevent the imminent
81 commission of a forcible felony ~~uses or threatens to use force~~
82 ~~in accordance with s. 776.012(1) or (2) or s. 776.031(1) or (2).~~

83 (4) A person who unlawfully and by force enters or
84 attempts to enter a place where he or she does not have a right
85 to be person's dwelling, residence, or occupied vehicle is
86 presumed to be doing so with the intent to commit an unlawful
87 act involving force or violence.

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

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

94 ~~(b) "Residence" means a dwelling in which a person resides~~
95 ~~either temporarily or permanently or is visiting as an invited~~
96 ~~guest.~~

97 ~~(c) "Vehicle" means a conveyance of any kind, whether or~~
98 ~~not motorized, which is designed to transport people or~~
99 ~~property.~~

100 Section 2. Section 776.032, Florida Statutes, is amended
101 to read:

102 776.032 Immunity from criminal prosecution and civil
103 action for justifiable use ~~or threatened use~~ of force.—

104 (1) A person who uses ~~or threatens to use~~ force as

105 permitted in s. 776.012, s. 776.013, or s. 776.031 is justified
 106 in using such force ~~conduct~~ and is immune from criminal
 107 prosecution and civil action for the use ~~or threatened use~~ of
 108 such force. However, this immunity does not apply if:

109 (a) A child or a bystander who is not affiliated with the
 110 overt act is injured; or

111 (b) The ~~by the person, personal representative, or heirs~~
 112 ~~of the person~~ against whom the force was used ~~or threatened,~~
 113 ~~unless the person against whom force was used or threatened is a~~
 114 law enforcement officer, as defined in s. 943.10(14), who was
 115 acting in the performance of his or her official duties and the
 116 officer identified himself or herself in accordance with any
 117 applicable law or the person using ~~or threatening to use~~ force
 118 knew or reasonably should have known that the person was a law
 119 enforcement officer.

120
 121 As used in this subsection, the term "criminal prosecution"
 122 includes arresting, detaining in custody, and charging or
 123 prosecuting the defendant.

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

130 (3) The court shall award reasonable attorney's fees,

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131 court costs, compensation for loss of income, and all expenses
132 incurred by the defendant in defense of any civil action brought
133 by a plaintiff if the court finds that the defendant is immune
134 from prosecution as provided in subsection (1).

135 Section 3. Section 776.012, Florida Statutes, is amended
136 to read:

137 776.012 Use ~~or threatened use~~ of force in defense of
138 person.—

139 (1) A person is justified in using ~~or threatening to use~~
140 force, except deadly force, against another when and to the
141 extent that the person reasonably believes that such conduct is
142 necessary to defend himself or herself or another against the
143 other's imminent use of unlawful force. A person who uses ~~or~~
144 ~~threatens to use~~ force in accordance with this subsection does
145 not have a duty to retreat before using ~~or threatening to use~~
146 such force.

147 (2) A person is justified in using ~~or threatening to use~~
148 deadly force if he or she reasonably believes that using ~~or~~
149 ~~threatening to use~~ such force is necessary to prevent imminent
150 death or great bodily harm to himself or herself or another or
151 to prevent the imminent commission of a forcible felony. A
152 person who uses ~~or threatens to use~~ deadly force in accordance
153 with this subsection does not have a duty to retreat and has the
154 right to stand his or her ground if the person using ~~or~~
155 ~~threatening to use~~ the deadly force is not engaged in a criminal
156 activity and is in a place where he or she has a right to be.

157 Section 4. Section 776.031, Florida Statutes, is amended
 158 to read:

159 776.031 Use ~~or threatened~~ use of force in defense of
 160 property.—

161 (1) A person is justified in using ~~or threatening to use~~
 162 force, except deadly force, against another when and to the
 163 extent that the person reasonably believes that such conduct is
 164 necessary to prevent or terminate the other's trespass on, or
 165 other tortious or criminal interference with, either real
 166 property other than a dwelling or personal property, lawfully in
 167 his or her possession or in the possession of another who is a
 168 member of his or her immediate family or household or of a
 169 person whose property he or she has a legal duty to protect. A
 170 person who uses ~~or threatens to use~~ force in accordance with
 171 this subsection does not have a duty to retreat before using ~~or~~
 172 ~~threatening to use~~ such force.

173 (2) A person is justified in using ~~or threatening to use~~
 174 deadly force only if he or she reasonably believes that such
 175 conduct is necessary to prevent the imminent commission of a
 176 forcible felony. A person who uses or threatens to use deadly
 177 force in accordance with this subsection does not have a duty to
 178 retreat and has the right to stand his or her ground if the
 179 person using ~~or threatening to use~~ the deadly force is not
 180 engaged in a criminal activity and is in a place where he or she
 181 has a right to be.

182 Section 5. Subsection (1) of section 790.15, Florida

183 Statutes, is amended to read:

184 790.15 Discharging firearm in public or on residential
185 property.—

186 (1) Except as provided in subsection (2) or subsection
187 (3), a ~~any~~ person who knowingly discharges a firearm in any
188 public place or on the right-of-way of any paved public road,
189 highway, or street, who knowingly discharges a ~~any~~ firearm over
190 the right-of-way of any paved public road, highway, or street or
191 over any occupied premises, or who recklessly or negligently
192 discharges a firearm outdoors on ~~any~~ property used primarily as
193 the site of a dwelling ~~as defined in s. 776.013~~ or zoned
194 exclusively for residential use commits a misdemeanor of the
195 first degree, punishable as provided in s. 775.082 or s.
196 775.083. As used in this subsection, the term "dwelling" means a
197 building or conveyance of any kind, including any attached
198 porch, whether the building or conveyance is temporary or
199 permanent, mobile or immobile, which has a roof over it,
200 including a tent, and is designed to be occupied by people
201 lodging therein at night. This section does not apply to a
202 person lawfully defending life or property or performing
203 official duties requiring the discharge of a firearm or to a
204 person discharging a firearm on public roads or properties
205 expressly approved for hunting by the Fish and Wildlife
206 Conservation Commission or Florida Forest Service.

207 Section 6. For the purpose of incorporating the amendment
208 made by this act to section 776.012, Florida Statutes, in a

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209 reference thereto, subsection (5) of section 790.25, Florida
210 Statutes, is reenacted to read:

211 790.25 Lawful ownership, possession, and use of firearms
212 and other weapons.—

213 (5) POSSESSION IN PRIVATE CONVEYANCE.—Notwithstanding
214 subsection (2), it is lawful and is not a violation of s. 790.01
215 for a person 18 years of age or older to possess a concealed
216 firearm or other weapon for self-defense or other lawful purpose
217 within the interior of a private conveyance, without a license,
218 if the firearm or other weapon is securely encased or is
219 otherwise not readily accessible for immediate use. Nothing
220 herein contained prohibits the carrying of a legal firearm other
221 than a handgun anywhere in a private conveyance when such
222 firearm is being carried for a lawful use. Nothing herein
223 contained shall be construed to authorize the carrying of a
224 concealed firearm or other weapon on the person. This subsection
225 shall be liberally construed in favor of the lawful use,
226 ownership, and possession of firearms and other weapons,
227 including lawful self-defense as provided in s. 776.012.

228 Section 7. This act shall take effect July 1, 2015.