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3 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HB49
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8 SYNOPSIS: Under existing law, a person is justified in
9 using physical force, including deadly force, in
10 self-defense or in the defense of another person
11 under certain conditions, and an occupant of a
12 dwelling or business property may use deadly
13 physical force, and is legally presumed to be
14 justified in using deadly physical force, in
15 self-defense or the defense of another person
16 against a person committing or attempting to commit
17 certain specified crimes.

18 This bill would further provide for the
19 justification for a person to use deadly physical
20 force in self-defense or in the defense of another
21 person on the premises of a church under certain
22 conditions.
23

24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to self-defense and the defense of others;
2 to further provide for the justification for a person to use
3 deadly physical force in self-defense or in the defense of
4 another person on the premises of a church under certain
5 conditions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known and may be cited
8 as the Alabama Church Protection Act.

9 Section 2. (a) For the purposes of this section, the
10 following words have the following meanings:

11 (1) CHURCH. The premises of an establishment where
12 religious services are regularly conducted by a bona fide duly
13 constituted religious society or ecclesiastical body of any
14 sect, order, or denomination, or any congregation thereof. The
15 term includes a synagogue or mosque, but does not include a
16 private dwelling.

17 (2) DEADLY PHYSICAL FORCE. Force which, under the
18 circumstances in which it is used, is readily capable of
19 causing death or serious physical injury.

20 (3) FORCE. Physical action or threat against
21 another, including confinement.

22 (4) PREMISES. The term includes any building and any
23 real property of the church.

24 (b) In addition to any authorization for the use of
25 deadly physical force under Section 13A-3-23, Code of Alabama
26 1975, a person may use deadly physical force, and is legally
27 presumed to be justified in using deadly physical force in

1 self-defense or the defense of another person, if the person
2 reasonably believes that another person is using or about to
3 use physical force against an employee, volunteer, member of a
4 church, or any other person authorized to be on the premises
5 of the church when the church is open or closed to the public
6 while committing or attempting to commit a crime involving
7 death, serious physical injury, robbery in the first degree,
8 or kidnapping in the first degree.

9 (c) A person who is justified under subsection (b)
10 in using deadly physical force, who is not engaged in an
11 unlawful activity, and is in any place where he or she has the
12 right to be, has no duty to retreat and has the right to stand
13 his or her ground.

14 (d) A person who uses force, including deadly
15 physical force, as justified and permitted in this section is
16 immune from criminal prosecution and civil action for the use
17 of such force, unless the force was determined to be unlawful.

18 (e) (1) Prior to the commencement of a trial in a
19 case in which a defense is claimed under this section, the
20 court having jurisdiction over the case, upon motion of the
21 defendant, shall conduct a pretrial hearing to determine
22 whether deadly force, used by the defendant was justified or
23 whether it was unlawful under this section. During any
24 pretrial hearing to determine immunity, the defendant must
25 show by a preponderance of the evidence that he or she is
26 immune from criminal prosecution.

1 (2) If, after a pretrial hearing under subdivision
2 (1), the court concludes that the defendant has proved by a
3 preponderance of the evidence that force, including deadly
4 force, was justified, the court shall enter an order finding
5 the defendant immune from criminal prosecution and dismissing
6 the criminal charges.

7 (3) If the defendant does not meet his or her burden
8 of proving immunity at the pretrial hearing, he or she may
9 continue to pursue the defense of self-defense or defense of
10 another person at trial. Once the issue of self-defense or
11 defense of another person has been raised by the defendant,
12 the state continues to bear the burden of proving beyond a
13 reasonable doubt all of the elements of the charged conduct.

14 (f) A law enforcement agency may use standard
15 procedures for investigating the use of force described in
16 subsection (b), but the agency may not arrest the person for
17 using force unless it determines that there is probable cause
18 that the force used was unlawful.

19 (g) This section is supplemental to any other law on
20 self-defense or defense of another person.

21 Section 3. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.