

1 A bill to be entitled
 2 An act relating to self-defense immunity; amending s.
 3 776.032, F.S.; revising the standard of proof
 4 necessary to overcome immunity from criminal
 5 prosecution; specifying that immunity from prosecution
 6 is not available to an aggressor; amending ss. 776.012
 7 and 776.013, F.S.; revising the criteria for
 8 determining whether a person would be justified in
 9 using force in certain circumstances; providing an
 10 effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14 Section 1. Subsection (4) of section 776.032, Florida
 15 Statutes, is amended, and subsection (5) is added to that
 16 section, to read:

17 776.032 Immunity from criminal prosecution and civil
 18 action for justifiable use or threatened use of force.—

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

25 (5) Immunity from prosecution is not available to an

26 | aggressor as provided in s. 776.041.

27 | Section 2. Section 776.012, Florida Statutes, is amended
28 | to read:

29 | 776.012 Use or threatened use of force in defense of
30 | person.—

31 | (1) A person is justified in using or threatening to use
32 | force, except deadly force, against another when and to the
33 | extent that a reasonably cautious and prudent person in the same
34 | circumstances would objectively believe ~~the person reasonably~~
35 | ~~believes~~ that such conduct is necessary to defend himself or
36 | herself or another against the other's imminent use of unlawful
37 | force. A person who uses or threatens to use force in accordance
38 | with this subsection does not have a duty to retreat before
39 | using or threatening to use such force.

40 | (2) A person is justified in using or threatening to use
41 | deadly force if a reasonably cautious and prudent person in the
42 | same circumstances would objectively believe ~~he or she~~
43 | ~~reasonably believes~~ that using or threatening to use such force
44 | is necessary to prevent imminent death or great bodily harm to
45 | himself or herself or another or to prevent the imminent
46 | commission of a forcible felony. A person who uses or threatens
47 | to use deadly force in accordance with this subsection does not
48 | have a duty to retreat and has the right to stand his or her
49 | ground if the person using or threatening to use the deadly
50 | force is not engaged in a criminal activity and is in a place

51 | where he or she has a right to be.

52 | Section 3. Subsection (1) of section 776.013, Florida
53 | Statutes, is amended to read:

54 | 776.013 Home protection; use or threatened use of deadly
55 | force; presumption of fear of death or great bodily harm.—

56 | (1) A person who is in a dwelling or residence in which
57 | the person has a right to be has no duty to retreat and has the
58 | right to stand his or her ground and use or threaten to use:

59 | (a) Nondeadly force against another when and to the extent
60 | that a reasonably cautious and prudent person in the same
61 | circumstances would objectively believe ~~the person reasonably~~
62 | ~~believes~~ that such conduct is necessary to defend himself or
63 | herself or another against the other's imminent use of unlawful
64 | force; or

65 | (b) Deadly force if a reasonably cautious and prudent
66 | person in the same circumstances would objectively believe ~~he or~~
67 | ~~she reasonably believes~~ that using or threatening to use such
68 | force is necessary to prevent imminent death or great bodily
69 | harm to himself or herself or another or to prevent the imminent
70 | commission of a forcible felony.

71 | Section 4. This act shall take effect July 1, 2019.