

House Bill 842

By: Representatives Lim of the 98<sup>th</sup>, Gilliard of the 162<sup>nd</sup>, Holcomb of the 81<sup>st</sup>, Au of the 50<sup>th</sup>,  
Marin of the 96<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 15-12-71 of the Official Code of Georgia Annotated, relating to  
2 duties of grand jury, so as to provide for a conforming cross-reference; to amend Article 2  
3 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification  
4 and excuse, so as to revise and repeal certain provisions regarding justification and the use  
5 of force; to amend Code Section 17-7-52, relating to procedure for indictment or special  
6 presentment of peace officer for crime in performance of duties, notification, and rights of  
7 officer, so as to provide for a conforming cross-reference; to amend Title 51 of the Official  
8 Code of Georgia Annotated, relating to torts, so as repeal and reserve certain provisions and  
9 provide for a conforming cross-reference; to provide for related matters; to provide for a  
10 short title; to provide for an effective date and applicability; to repeal conflicting laws; and  
11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **PART I**  
14 **SECTION 1-1.**

15 This Act shall be known and may be cited as the "Georgia Shoot First Act."

H. B. 842

16 **PART II**

17 **SECTION 2-1.**

18 Code Section 15-12-71 of the Official Code of Georgia Annotated, relating to duties of grand  
19 jury, is amended by revising subparagraph (b)(5)(E) as follows:

20 "(E) Prior to the introduction of any evidence or the first witness being sworn, the  
21 district attorney shall advise the grand jury of the laws applicable to the conduct of such  
22 review. In particular, the grand jury shall be advised of Code Sections 16-3-20,  
23 16-3-21, ~~16-3-23.1~~, and 17-4-20."

24 **SECTION 2-2.**

25 Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to  
26 justification and excuse, is amended by revising subsection (b) of Code Section 16-3-21,  
27 relating to use of force in defense of self or others and evidence of belief that force was  
28 necessary in murder or manslaughter prosecution, as follows:

29 "(b) A person is not justified in using force under the circumstances specified in subsection  
30 (a) of this Code section if he or she:

31 (1) Initially provokes the use of force against himself or herself with the intent to use  
32 such force as an excuse to inflict bodily harm upon the assailant;

33 (2) Is attempting to commit, committing, or fleeing after the commission or attempted  
34 commission of a felony; ~~or~~

35 (3) Was the aggressor or was engaged in a combat by agreement unless he or she  
36 withdraws from the encounter and effectively communicates to such other person his or  
37 her intent to do so and the other, notwithstanding, continues or threatens to continue the  
38 use of unlawful force; or

39 (4) Knows he or she can avoid using force which is intended or likely to cause death or  
40 great bodily harm with complete safety by removing himself or herself from such  
41 circumstances."

42 **SECTION 2-3.**

43 Said article is further amended by revising Code Section 16-3-23, relating to use of force in  
44 defense of habitation, as follows:

45 "16-3-23.

46 (a) A person is justified in threatening or using force against another and has no duty to  
47 retreat when and to the extent that he or she reasonably believes that such threat or force  
48 is necessary to prevent or terminate such other's unlawful entry into or attack upon a  
49 habitation, as defined in Code Section 16-3-24.1; however, such person is justified in the  
50 use of force which is intended or likely to cause death or great bodily harm only if:

51 (1) The entry is made or attempted in a violent and tumultuous manner and he or she  
52 reasonably believes that the entry is attempted or made for the purpose of assaulting or  
53 offering personal violence to any person dwelling or being therein and that such force is  
54 necessary to prevent the assault or offer of personal violence;

55 (2) That force is used against another person who is not a member of the family or  
56 household and who unlawfully and forcibly enters or has unlawfully and forcibly entered  
57 the residence and the person using such force knew or had reason to believe that an  
58 unlawful and forcible entry occurred; or

59 (3) The person using such force reasonably believes that the entry is made or attempted  
60 for the purpose of committing a felony therein and that such force is necessary to prevent  
61 the commission of the felony.

62 (b)(1) If the local law enforcement agency declines to effect an arrest, or if the office of  
63 the district attorney declines to file charges, pursuant to subsection (a) of this Code  
64 section, the local law enforcement agency or agencies shall submit a report which

65 documents all investigative efforts to the Georgia Bureau of Investigation, which shall,  
66 in consultation with the office of the Attorney General, determine whether further  
67 investigation is warranted.

68 (2) The Georgia Bureau of Investigation shall publish on its publicly accessible website  
69 on an annual basis a report detailing the number of cases involving all use of force claims  
70 where a local law enforcement agency declined to file charges or a district attorney  
71 declined to effect an arrest pursuant to subsection (a) of this Code section;

72 (c) Nothing in this Code section shall preclude a person from bringing forth a civil action  
73 or from being held liable in a civil action."

74 **SECTION 2-4.**

75 Said article is further amended by repealing in its entirety Code Section 16-3-23.1, relating  
76 to no duty to retreat prior to use of force in self-defense.

77 **SECTION 2-5.**

78 Said article is further amended by revising Code Section 16-3-24.1, relating to habitation and  
79 personal property defined, as follows:

80 "16-3-24.1.

81 As used in Code Sections 16-3-23 and 16-3-24, the term 'habitation' means any dwelling,  
82 ~~motor vehicle, or place of business,~~ and 'personal property' means personal property other  
83 than a ~~motor vehicle~~ dwelling."

84 **SECTION 2-6.**

85 Said article is further amended by revising Code Section 16-3-24.2, relating to immunity  
86 from prosecution and exemption, as follows:

87 "16-3-24.2.

88 A person who uses threats or force in accordance with Code Section 16-3-21, 16-3-23,  
89 ~~16-3-23.1~~, or 16-3-24 shall be immune from criminal prosecution therefor unless in the use  
90 of deadly force, such person utilizes a weapon the carrying or possession of which is  
91 unlawful by such person under Part 2 of Article 4 of Chapter 11 of this title."

92 **SECTION 2-7.**

93 Code Section 17-7-52, relating to procedure for indictment or special presentment of peace  
94 officer for crime in performance of duties, notification, and rights of officer, is amended by  
95 revising subsection (c) as follows:

96 "(c) Prior to the introduction of any evidence or the first witness being sworn, the  
97 prosecuting attorney shall advise the grand jury of the laws applicable to the conduct of  
98 such proceedings, all relevant sections of the Code relating to the crime or crimes alleged  
99 in the bill of indictment, and any Code section that excuses or justifies such conduct. In  
100 particular, the grand jury shall be advised of Code Sections 16-3-20, 16-3-21, ~~16-3-23.1~~,  
101 and 17-4-20."

102 **PART III**

103 **SECTION 3-1.**

104 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising  
105 Code Section 51-1-30.4, relating to immunity from liability for officers providing security  
106 at nuclear facilities, as follows:

107 "51-1-30.4.

108 Notwithstanding any other provision of law, an authorized security officer as provided for  
109 in Code Section 16-11-124 acting within the scope of his or her official duties on the  
110 premises of a federally licensed nuclear power facility or the properties adjacent to the

111 facility pursuant to a written agreement entered into with the local law enforcement agency  
 112 having jurisdiction over the facility ~~shall be entitled to immunity as provided in Code~~  
 113 ~~Section 51-11-9. Such officer~~ and the officer's employer or the owner, operator, or licensee  
 114 of the facility where the officer is providing security services shall also be immune from  
 115 liability for the officer's good faith performance of his or her duties at such facility in  
 116 accordance with a nuclear security plan approved by the United States Nuclear Regulatory  
 117 Commission or other authorized federal agency."

118 **SECTION 3-2.**

119 Said article is further amended by revising Code Section 51-11-9, relating to immunity from  
 120 civil liability for threat or use of force in defense of habitation, as follows:

121 "51-11-9.

122 ~~A person who is justified in threatening or using force against another under the provisions~~  
 123 ~~of Code Section 16-3-21, relating to the use of force in defense of self or others, Code~~  
 124 ~~Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section~~  
 125 ~~16-3-24, relating to the use of force in defense of property other than a habitation, has no~~  
 126 ~~duty to retreat from the use of such force and shall not be held liable to the person against~~  
 127 ~~whom the use of force was justified or to any person acting as an accomplice or assistant~~  
 128 ~~to such person in any civil action brought as a result of the threat or use of such force~~  
 129 Reserved."

130 **PART IV**

131 **SECTION 4-1.**

132 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 133 without such approval. This Act shall not affect rights and duties that matured, penalties that  
 134 were incurred, and proceedings that were begun before the effective date of this Act.

135

**SECTION 4-2.**

136 All laws and parts of laws in conflict with this Act are repealed.