

1 A bill to be entitled

2 An act relating to defense of life, home, and  
3 property; creating s. 776.001, F.S.; providing  
4 legislative finding and intent; providing that the  
5 defensive display of a weapon or firearm, including  
6 the discharge of a firearm for the purpose of a  
7 warning shot, does not constitute the use of deadly  
8 force; providing immunity from prosecution for persons  
9 acting in defense of life, home, and property from  
10 violent attack or the threat of violent attack through  
11 certain displays of or uses of force; creating s.  
12 776.0011, F.S.; providing definitions; creating s.  
13 776.033, F.S.; providing for the justifiable defensive  
14 display of a firearm or weapon in certain  
15 circumstances; amending s. 776.06, F.S.; limiting a  
16 provision authorizing use of deadly force by law  
17 enforcement or correctional officers; creating s.  
18 775.0878, F.S.; providing an exemption from minimum  
19 sentence requirements related to use of a weapon or  
20 firearm for persons acting in self-defense or defense  
21 of others; authorizing a departure from minimum  
22 sentence requirements related to use of a weapon or  
23 firearm for persons convicted of certain offenses who  
24 meet specified requirements; providing an effective  
25 date.  
26

27 WHEREAS, the intent of mandatory minimum sentencing  
 28 requirements is to deter crime without discouraging the lawful  
 29 defense of life, home, and property, and

30 WHEREAS, the defensive display of a means of self-defense  
 31 does not constitute the application of lethal force and is  
 32 justified in defense of life, home, and property, and

33 WHEREAS, people acting to lawfully defend themselves are,  
 34 at that point, already victims of crime, NOW, THEREFORE,

35

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

37

38 Section 1. Section 776.001, Florida Statutes, is created  
 39 to read:

40 776.001 Legislative findings and intent; defensive display  
 41 of weapon or firearm; defense of life, home, and property.-

42 (1) The Legislature finds that it is unreasonable to  
 43 prosecute a person for acting in a defensive manner. The  
 44 Legislature intends to clarify that the defensive display of a  
 45 weapon or firearm, including the discharge of a firearm for the  
 46 purpose of a warning shot, does not constitute the use of deadly  
 47 force and is a valid method of preventing or terminating an  
 48 imminent or actual violent criminal attack.

49 (2) It is the intent of the Legislature to immunize a  
 50 person from prosecution who acts in defense of life, home, and  
 51 property from violent attack or the threat of violent attack by:

52 (a) Defensively displaying a weapon or firearm, if the

53 person reasonably believes that it is necessary to warn an  
54 attacker to prevent or terminate an imminent or actual violent  
55 criminal attack, including by the firing of a warning shot;

56 (b) Using force, if the person reasonably believes that it  
57 is necessary to prevent or terminate an imminent or actual  
58 violent criminal attack; or

59 (c) Using deadly force, if the person reasonably believes  
60 that it is necessary to prevent death or great bodily harm or to  
61 prevent or terminate the imminent or actual commission of a  
62 forcible felony.

63 Section 2. Section 776.0011, Florida Statutes, is created  
64 to read:

65 776.0011 Definitions.—As used in this chapter, the term:

66 (1) "Defensive display" means the overt presentation of a  
67 weapon or the overt presentation, use, or discharge of a  
68 firearm, so long as the purpose of such action is limited to  
69 creating an apprehension that a person will, if necessary:

70 (a) Use force in lawful defense of life, home, and  
71 property;

72 (b) Lawfully defend against imminent or actual unlawful  
73 violence to a person; or

74 (c) Use force to effect a lawful arrest.

75 (2) "Unlawful activity" means any or all of the following:

76 (a) Being engaged in the commission of a crime involving  
77 the use or threat of violence;

78 (b) The illegal distribution of a controlled substance; or

79 (c) Use of a dwelling, residence, or occupied vehicle to  
 80 further activities described in paragraph (a) or paragraph (b).

81 (3) "Use of deadly force" is not the lawful carrying or  
 82 possession of a weapon or firearm, but means the application of  
 83 any physical force described in subsection (4) which is  
 84 reasonably known to be likely to cause death or great bodily  
 85 harm. The term "use of deadly force" does not include a threat  
 86 to cause death or great bodily harm, including, but not limited  
 87 to, a defensive display, made when a person reasonably believes  
 88 that such conduct is necessary to defend themselves or another  
 89 against the actual or imminent use of unlawful force or to  
 90 prevent or terminate the imminent or actual commission of a  
 91 forcible felony.

92 (4) "Use of force" is not the lawful carrying or  
 93 possession of a weapon or firearm, but means any or all of the  
 94 following directed at or upon another person or thing:

95 (a) Words or actions that reasonably convey the threat of  
 96 force, including, but not limited to, threats to cause death or  
 97 great bodily harm to a person;

98 (b) The presentation or display of a means of force that  
 99 reasonably conveys the threat of force; or

100 (c) The application of physical force, including  
 101 application by a weapon or firearm or through the actions of  
 102 another.

103 Section 3. Section 776.033, Florida Statutes, is created  
 104 to read:

105 776.033 Defensive display of a firearm or weapon.—  
 106 (1) (a) For the purposes of this section, the term  
 107 "defensive display of a firearm or weapon" includes:  
 108 1. Verbally informing another person that the person  
 109 possesses or has available a firearm or weapon.  
 110 2. Exposing or displaying a firearm or weapon in a manner  
 111 that a reasonable person would understand was meant to convey  
 112 that it would be used, if necessary, to protect against the  
 113 commission of a forcible felony, the use or attempted use of  
 114 unlawful force, or unlawful deadly force.  
 115 3. Overtly placing the person's hand on a firearm or  
 116 weapon while the firearm or weapon is contained in a pocket,  
 117 purse, holster, or other means of containment or transport.  
 118 (b) For the purposes of this section, the term "defensive  
 119 display of a firearm or weapon" does not include the mere  
 120 carrying of a firearm or weapon in any manner not prohibited by  
 121 law.  
 122 (2) A person is justified in the defensive display of a  
 123 firearm or weapon when the person reasonably believes that such  
 124 conduct is necessary to defend themselves or another against the  
 125 actual or imminent use of unlawful force or to prevent or  
 126 terminate the imminent or actual commission of a forcible  
 127 felony. A person does not have a duty to retreat if the person  
 128 is in a place where he or she has a right to be.  
 129 (3) This section does not apply to a person who:  
 130 (a) Intentionally provokes another person to use or

131 attempt to use unlawful force; or

132 (b) Is attempting to commit, committing, or escaping  
 133 immediately after the commission of a forcible felony.

134 (4) This section does not require the defensive display of  
 135 a firearm or weapon before the use of force or the threat of  
 136 force by a person who is otherwise justified in the use or  
 137 threatened use of force.

138 Section 4. Subsection (1) of section 776.06, Florida  
 139 Statutes, is amended to read:

140 776.06 Deadly force by law enforcement or correctional  
 141 officers.—

142 (1) As applied to a law enforcement officer or  
 143 correctional officer who acts during and within the scope of his  
 144 or her official duties, the term "deadly force" means force that  
 145 is likely to cause death or great bodily harm and includes, but  
 146 is not limited to:

147 (a) The firing of a firearm in the direction of the person  
 148 to be arrested, even though no intent exists to kill or inflict  
 149 great bodily harm; and

150 (b) The firing of a firearm at a vehicle in which the  
 151 person to be arrested is riding.

152 Section 5. Section 775.0878, Florida Statutes, is created  
 153 to read:

154 775.0878 Exemption from minimum sentence requirement.—

155 (1) The Legislature finds that s. 775.087 is not intended  
 156 to apply to persons who are defending or attempting to defend

157 themselves or others from violent criminal attack. The  
158 Legislature intends to establish that s. 775.087 does not apply  
159 to persons who act in self-defense or defense of others and that  
160 those persons are not subject to sentencing under s. 775.087.

161 (2) Notwithstanding any other provision of law, when  
162 sentencing a defendant convicted of aggravated assault or  
163 aggravated battery, the sentencing court shall depart downward  
164 from the mandatory minimum sentence prescribed in s. 775.087(2),  
165 provided that the sentencing or trial court finds the following  
166 by a preponderance of the evidence:

167 (a) The defendant did not act in the furtherance of  
168 another criminal act;

169 (b) The defendant had established a prima facie case at  
170 trial, during any proceeding, by stipulation, or at any stage of  
171 the investigation that the act alleged was committed with  
172 defensive intent; and

173 (c) The mandatory minimum sentence is not compelled for  
174 the protection of the public.

175 (3) The state may appeal a departure from a mandatory  
176 minimum sentence under this section.

177 Section 6. This act shall take effect upon becoming a law.