
DIGEST

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HB 235 Original

2019 Regular Session

Amedee

Abstract: Provides relative to the use of force or violence against the person of another, or the commission of a homicide, in self-defense by persons lawfully inside a place of worship.

Present law (R.S. 14:19, use of force or violence in defense) provides that the use of force or violence upon the person of another that does not result in the person's death is justifiable under the following circumstances:

- (1) When committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense.
- (2) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person using the force or violence reasonably believes that the use of force or violence is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

Present law (R.S. 14:20, justifiable homicide) provides that a homicide is justified under the following circumstances:

- (1) When committed in self-defense by one who reasonably believes that he is in imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger.
- (2) When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about to be committed and that such action is necessary for its prevention.
- (3) When committed against a person whom one reasonably believes to be likely to use any unlawful force against a person present in a dwelling or a place of business, or when committed against a person whom one reasonably believes is attempting to use any unlawful force against a person present in a motor vehicle, while committing or attempting to commit a burglary or robbery of such dwelling, business, or motor vehicle.
- (4) When committed by a person lawfully inside a dwelling, a place of business, or a motor

vehicle when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person committing the homicide reasonably believes that the use of deadly force is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

Present law (R.S. 14:19 and 20) provides a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of force was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the dwelling, place of business, or motor vehicle when the conflict began, if both of the following occur:

- (1) The person against whom deadly force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.
- (2) The person who used deadly force knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

Proposed law retains present law, but expands its application to persons lawfully inside a places of worship. For these purposes, proposed law defines "place of worship" as any church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose.

Proposed law further provides that if the force or violence used by the person claiming the defense involves the use of a firearm, or if the homicide is committed by use of a firearm, the provisions of proposed law shall apply to the person only if the person lawfully possessed the firearm under state and federal law, including but not limited to provisions regulating the carrying of a concealed handgun or firearm.

(Amends R.S. 14:19(A)(1)(b)(i) and (B)(intro. para.) and (1) and 20(A)(3) and (4)(a) and (B)(intro. para.) and (1); Adds R.S. 14:19(E) and 20(E))