
DIGEST

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HB 235 Reengrossed

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 inside a religious building property.

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.

Proposed law retains present law, but expands its application to a lawful person who is inside a religious building property when both of the following circumstances exist:

- (1) The use of force was for the purpose of preventing an intruder from committing a crime or forcible offense against the religious building property or against the lawful person or against another person present in the religious building property.
- (2) The lawful person reasonably believes that the use of force is necessary to prevent the entry or compel the intruder to leave the religious building property or to prevent the intruder from committing a crime against the lawful person or other person inside the building.

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 and applies the present law presumption to a person lawfully inside a religious building property.

Proposed law defines "lawful person", "intruder", and "religious building property" for purposes of proposed law.

(Amends R.S. 14:19(A)(1)(intro. para.) and (B)(intro. para.) and 20(B)(intro. para.) and (1); Adds R.S. 14:19(A)(1)(c) and (E) and 20(A)(5) and (E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove the requirement that the person may only claim a defense that involves the use of a firearm if the person lawfully possessed the firearm under state or federal law.

2. Add a requirement that the person may only claim a defense that involves the use of a firearm if the person was not prohibited from possessing a firearm under state or federal law.

The House Floor Amendments to the engrossed bill:

1. Remove proposed law changes that expand the application of present law to persons lawfully inside places of worship.
2. Remove the proposed law definition of "place of worship".
3. Remove provisions of proposed law that limit the application of proposed law to persons who are not prohibited from possessing a firearm under state or federal law.
4. Expand application of present law to the use of force or violence in defense by a lawful person who is inside a religious building property under certain circumstances, including to prevent an intruder from committing a crime against the religious building property or a person.
5. Provide that a person lawfully inside religious building property is presumed to believe that the use of force or violence was necessary to prevent unlawful entry of the intruder or to compel the intruder to leave the premises.
6. Expand application of present law to provide that a homicide is justified when committed by a lawful person who is inside a religious building property under certain circumstances, including to prevent an intruder from committing a crime against the religious building property or a person.
7. Provide that a person lawfully inside a religious building property is presumed to believe that the use of deadly force was necessary to prevent unlawful entry of the intruder or to compel the intruder to leave the premises.
8. Define "lawful person", "religious building property", and "intruder" for purposes of proposed law.