

ACT No. 141

HOUSE BILL NO. 89

BY REPRESENTATIVES LAFLEUR, ALARIO, ALEXANDER, ANSARDI, ARNOLD, BALDONE, BAUDOIN, BAYLOR, BEARD, BRUCE, BRUNEAU, BURNS, BURRELL, R. CARTER, CAZAYOUX, CRANE, CRAVINS, CROWE, CURTIS, DAMICO, DANIEL, DARTEZ, DORSEY, DOVE, DURAND, ERDEY, FANNIN, FARRAR, FAUCHEUX, FRITH, GLOVER, GREENE, M. GUILLORY, HARRIS, HEATON, HEBERT, HILL, HONEY, HOPKINS, HUNTER, HUTTER, KATZ, KENNEY, LAFONTA, LAMBERT, LANCASTER, MCDONALD, MCVEA, PIERRE, PINAC, PITRE, M. POWELL, T. POWELL, QUEZAIRE, RITCHIE, ROBIDEAUX, ROMERO, SALTER, SCALISE, SCHNEIDER, SMILEY, GARY SMITH, JACK SMITH, JANE SMITH, JOHN SMITH, ST. GERMAIN, STRAIN, THOMPSON, TOOMY, TOWNSEND, TRAHAN, WADDELL, WALKER, AND WHITE AND SENATOR CAIN

1 AN ACT

2 To amend and reenact R.S. 14:19 and 20, relative to the justifiable use of force or violence;
3 to provide for a presumption in the use of force or violence under certain
4 circumstances; to provide for immunity for criminal prosecution for the use of force
5 or violence under certain circumstances; to provide for applicability; to provide that
6 there is no duty to retreat when a person is lawfully where they should be; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:19 and 20 are hereby amended and reenacted to read as follows:

10 §19. Use of force or violence in defense

11 A. The use of force or violence upon the person of another is justifiable
12 when committed for the purpose of preventing a forcible offense against the person
13 or a forcible offense or trespass against property in a person's lawful possession,
14 provided that the force or violence used must be reasonable and apparently necessary
15 to prevent such offense, and that this ~~article~~ Section shall not apply where the force
16 or violence results in a homicide.

17 B. For the purposes of this Section, there shall be a presumption that a
18 person lawfully inside a dwelling, place of business, or motor vehicle held a
19 reasonable belief that the use of force or violence was necessary to prevent unlawful

1 entry thereto, or to compel an unlawful intruder to leave the premises or motor
 2 vehicle, if both of the following occur:

3 (1) The person against whom the force or violence was used was in the
 4 process of unlawfully and forcibly entering or had unlawfully and forcibly entered
 5 the dwelling, place of business, or motor vehicle.

6 (2) The person who used force or violence knew or had reason to believe that
 7 an unlawful and forcible entry was occurring or had occurred.

8 C. A person who is not engaged in unlawful activity and who is in a place
 9 where he or she has a right to be shall have no duty to retreat before using force or
 10 violence as provided for in this Section and may stand his or her ground and meet
 11 force with force.

12 D. No finder of fact shall be permitted to consider the possibility of retreat
 13 as a factor in determining whether or not the person who used force or violence in
 14 defense of his person or property had a reasonable belief that force or violence was
 15 reasonable and apparently necessary to prevent a forcible offense or to prevent the
 16 unlawful entry.

17 §20. Justifiable homicide

18 A. A homicide is justifiable:

19 (1) When committed in self-defense by one who reasonably believes that he
 20 is in imminent danger of losing his life or receiving great bodily harm and that the
 21 killing is necessary to save himself from that danger.

22 (2) When committed for the purpose of preventing a violent or forcible
 23 felony involving danger to life or of great bodily harm by one who reasonably
 24 believes that such an offense is about to be committed and that such action is
 25 necessary for its prevention. The circumstances must be sufficient to excite the fear
 26 of a reasonable person that there would be serious danger to his own life or person
 27 if he attempted to prevent the felony without the killing.

28 (3) When committed against a person whom one reasonably believes to be
 29 likely to use any unlawful force against a person present in a dwelling or a place of
 30 business, or when committed against a person whom one reasonably believes is

1 attempting to use any unlawful force against a person present in a motor vehicle as
 2 defined in R.S. 32:1(40), while committing or attempting to commit a burglary or
 3 robbery of such dwelling, business, or motor vehicle. ~~The homicide shall be~~
 4 ~~justifiable even though the person does not retreat from the encounter.~~

5 (4)(a) When committed by a person lawfully inside a dwelling, a place of
 6 business, or a motor vehicle as defined in R.S. 32:1(40), against a person who is
 7 attempting to make an unlawful entry into the dwelling, place of business, or motor
 8 vehicle, or who has made an unlawful entry into the dwelling, place of business, or
 9 motor vehicle, and the person committing the homicide reasonably believes that the
 10 use of deadly force is necessary to prevent the entry or to compel the intruder to
 11 leave the premises or motor vehicle. ~~The homicide shall be justifiable even though~~
 12 ~~the person committing the homicide does not retreat from the encounter.~~

13 (b) The provisions of this Paragraph shall not apply when the person
 14 committing the homicide is engaged, at the time of the homicide, in the acquisition
 15 of, the distribution of, or possession of, with intent to distribute a controlled
 16 dangerous substance in violation of the provisions of the Uniform Controlled
 17 Dangerous Substances Law.

18 B. For the purposes of this Section, there shall be a presumption that a
 19 person lawfully inside a dwelling, place of business, or motor vehicle held a
 20 reasonable belief that the use of deadly force was necessary to prevent unlawful
 21 entry thereto, or to compel an unlawful intruder to leave the premises or motor
 22 vehicle, if both of the following occur:

23 (1) The person against whom deadly force was used was in the process of
 24 unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling,
 25 place of business, or motor vehicle.

26 (2) The person who used deadly force knew or had reason to believe that an
 27 unlawful and forcible entry was occurring or had occurred.

28 C. A person who is not engaged in unlawful activity and who is in a place
 29 where he or she has a right to be shall have no duty to retreat before using deadly

1 force as provided for in this Section, and may stand his or her ground and meet force
2 with force.

3 D. No finder of fact shall be permitted to consider the possibility of retreat
4 as a factor in determining whether or not the person who used deadly force had a
5 reasonable belief that deadly force was reasonable and apparently necessary to
6 prevent a violent or forcible felony involving life or great bodily harm or to prevent
7 the unlawful entry.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____