**A** **BILL**

TO AMEND SECTIONS 16‑11‑440 AND 16‑11‑450, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO IMMUNITY FROM CRIMINAL PROSECUTION AND CIVIL ACTIONS UNDER CERTAIN CIRCUMSTANCES FOR THE USE OF DEADLY FORCE AGAINST ANOTHER PERSON (STAND YOUR GROUND), BOTH SO AS TO INCLUDE DISPLAYING DEADLY FORCE IN THE PURVIEW OF THE STATUTES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑11‑440 of the 1976 Code is amended to read:

“Section 16‑11‑440. (A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using or displaying deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used or displayed is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses or displays deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used or displayed has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

(2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used or displayed; or

(3) who uses or displays deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) against whom the deadly force is used or displayed is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement officer.

(C) A person who is not engaged in an unlawful activity and who is attacked in ~~another~~ any place where he has a right to be~~,~~ including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, up to and including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16‑1‑60.

(D) A person who unlawfully and by force enters or attempts to enter a person’s dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16‑1‑60.

(E) A person who by force enters or attempts to enter a dwelling, residence, or occupied vehicle in violation of an order of protection, restraining order, or condition of bond is presumed to be doing so with the intent to commit an unlawful act regardless of whether the person is a resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.”

SECTION 2. Section 16‑11‑450 of the 1976 Code is amended to read:

“Section 16‑11‑450. (A) A person who uses or displays deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using or displaying deadly force and is immune from criminal prosecution and civil action for the use of ~~deadly~~ such force, unless the person against whom ~~deadly~~ such force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using or displaying deadly force knows or reasonably should have known that the person is a law enforcement officer.

(B) A law enforcement agency may use standard procedures for investigating the use or display of deadly force as described in subsection (A), but the agency may not arrest the person for using or displaying deadly force unless probable cause exists that the deadly force used or displayed was unlawful.

(C) The court shall award reasonable attorneys’ fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of a civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (A).”

SECTION 3. This act takes effect upon approval by the Governor.

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