

HOUSE BILL 1795

By West

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 11, Part 6, relative to self-defense.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-611, is amended by deleting the section in its entirety and by substituting instead the following:

Section 39-11-611.

(a)

(1) Any person is justified in threatening or using force against another when the person reasonably believes that force is immediately necessary to protect against another's use or attempted use of unlawful force. Any person using force must have a reasonable belief that there is an imminent danger of death or serious bodily injury. The danger creating the belief of imminent death or serious bodily injury must be:

(A) Real;

(B) Honestly believed to be real at the time; or

(C) Founded upon reasonable grounds.

(2) A person has no duty to retreat before another person threatens or uses force.

(3) Any person who acts in self-defense from an honest belief as to the extent of danger will not be held criminally liable for threatening or using force against another even if the person using force is mistaken as to the extent of actual danger based on that person's perception of the circumstances.

(b)

(1) Any person using force that is intended or likely to cause death or serious bodily injury within the person's protected zone is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to:

(A) Self;

(B) Family;

(C) A member of the person's household; or

(D) Any other person within the person's household who has a legal right to be present.

(2) Any person using force that is intended or likely to cause death or serious bodily injury within the person's protected zone is presumed to have had a reasonable fear of imminent peril of death or serious bodily injury when that force is used against another person not a member of the person's family or household who unlawfully enters the person's protected zone. Any person using such force must know or have reason to believe that an unlawful entry has occurred.

(3) "Protected zone" means:

(A) A person's home or residence and any other place where a person or the person's immediate family resides, whether temporary or permanent, mobile or immobile including, but not limited to:

(i) Houses;

(ii) Apartments;

(iii) Motel rooms;

(iv) Recreational vehicles;

(v) Boats;

(vi) Stand alone garages; and

(vii) Any surrounding curtilage thereof; and

(B) A motorized or unmotorized vehicle that has come into the possession of a person by any means of conveyance that is suitable to transport people or property on the state roadway system including a zone within twenty-one feet (21 ft.) surrounding the vehicle.

(c) The threat or use of force against another is not justified:

(1) If the person using force consented to the exact force used or attempted by the other individual;

(2) The person provokes another's use or attempted use of unlawful force, unless:

(A) The person using force abandons the encounter or clearly communicates to the other the intent to do so; and

(B) The other person nevertheless continues or attempts to use unlawful force against the person; or

(3) To resist a halt at a roadblock, arrest, search, or stop and frisk that the person using force knows is being made by a law enforcement officer, unless:

(A) The law enforcement officer uses or attempts to use greater force than necessary to make the arrest, search, stop and frisk or halt; and

(B) The person reasonably believes that the force is immediately necessary to protect against the enforcement officer's use or attempted use of greater force than necessary.

(d) A law enforcement agency shall use standardized procedures for investigating the use of force which may constitute a circumstance of justifiable use of force under this section or § 39-11-612.

(1) The standardized procedures for investigating non-law enforcement use of force circumstances under this subsection (d) shall be designed to result in investigations that are of a quality that meet or exceed investigatory standards used in law enforcement use of force investigations.

(2) A law enforcement agency may not arrest a person for using force which may be justifiable under this section unless it determines that there is probable cause that the force used was unlawful based upon the factors set forth in this section.

(3) A court may award reasonable attorney fees, court costs and all expenses incurred by a person in defense of any criminal action brought against such person based upon the person's use of force against the arresting law enforcement agency if the court determines that the defendant was justified in using such force pursuant to §§ 39-11-611—39-11-614 or § 29-34-201 and that the law enforcement investigatory requirements of this subsection (d) have not been met.

(e) A person who uses force as permitted in §§ 39-11-611—39-11-614 or § 29-34-201 is justified in using such force and is immune from civil liability for the use of such force.

(f) A court may award reasonable attorney fees, court costs, compensation for loss of income and all expenses incurred by a person in defense of any civil action brought against such person based upon the person's use of force if the court determines that the defendant was justified in using such force pursuant to §§ 39-11-611—39-11-614 or § 29-34-201.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.