

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 663, Page 94, Section 562.014, Line 12

2 of said page, by inserting after all of said line the following:

3 "563.031. 1. A person may, subject to the provisions of
4 subsection 2 of this section, use physical force upon another
5 person when and to the extent he or she reasonably believes such
6 force to be necessary to defend himself or herself or a third
7 person from what he or she reasonably believes to be the use or
8 imminent use of unlawful force by such other person, unless:

9 (1) The actor was the initial aggressor; except that in
10 such case his or her use of force is nevertheless justifiable
11 provided:

12 (a) He or she has withdrawn from the encounter and
13 effectively communicated such withdrawal to such other person but
14 the latter persists in continuing the incident by the use or
15 threatened use of unlawful force; or

16 (b) He or she is a law enforcement officer and as such is
17 an aggressor pursuant to section 563.046; or

18 (c) The aggressor is justified under some other provision
19 of this chapter or other provision of law;

20 (2) Under the circumstances as the actor reasonably
21 believes them to be, the person whom he or she seeks to protect

1 would not be justified in using such protective force;

2 (3) The actor was attempting to commit, committing, or
3 escaping after the commission of a forcible felony.

4 2. A person may not use deadly force upon another person
5 under the circumstances specified in subsection 1 of this section
6 unless:

7 (1) He or she reasonably believes that such deadly force is
8 necessary to protect himself, or herself or her unborn child, or
9 another against death, serious physical injury, or any forcible
10 felony;

11 (2) Such force is used against a person who unlawfully
12 enters, remains after unlawfully entering, or attempts to
13 unlawfully enter a dwelling, residence, or vehicle lawfully
14 occupied by such person; or

15 (3) Such force is used against a person who unlawfully
16 enters, remains after unlawfully entering, or attempts to
17 unlawfully enter private property that is owned or leased by an
18 individual claiming a justification of using protective force
19 under this section.

20 3. A person who is not engaged in an unlawful activity does
21 not have a duty to retreat from [a dwelling, residence, or
22 vehicle where the person is not unlawfully entering or unlawfully
23 remaining. A person does not have a duty to retreat from private
24 property that is owned or leased by such individual] any place he
25 or she has a right to be.

26 4. The justification afforded by this section extends to
27 the use of physical restraint as protective force provided that
28 the actor takes all reasonable measures to terminate the
29 restraint as soon as it is reasonable to do so.

1 5. The defendant shall have the burden of injecting the
2 issue of justification under this section. If a defendant
3 asserts that his or her use of force is described under
4 subdivision (2) of subsection 2 of this section, the burden shall
5 then be on the state to prove beyond a reasonable doubt that the
6 defendant did not reasonably believe that the use of such force
7 was necessary to defend against what he or she reasonably
8 believed was the use or imminent use of unlawful force."; and
9 Further amend the title and enacting clause accordingly.