

March 20, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1319

Page 1, line 1, replace "three" with "two"

Page 1, replace lines 13 through 24 with:

- "b. When used in lawful self-defense, or in lawful defense of others, if such force is necessary to protect the actor or anyone else against death, serious bodily injury, or the commission of a felony involving violence. The use of deadly force is not justified if it can be avoided, with safety to the actor and others, by retreat or other conduct involving minimal interference with the freedom of the ~~person~~ individual menaced. ~~A person~~ An individual seeking to protect ~~someone else~~ another individual must, before using deadly force, try to cause ~~that person~~ the other individual to retreat, or otherwise comply with the requirements of this provision, if safety can be obtained thereby. ~~But, (1)-a~~ However, the duty to retreat or avoid force does not apply under the following circumstances:
- (1) A public servant justified in using force in the performance of his the public servant's duties or a person an individual justified in using force in his assistance assisting the public servant need not desist from his the public servant's or individual's efforts because of resistance or threatened resistance by or on behalf of the person other individual against whom his the public servant's or individual's action is directed; and (2)-no person
- (2) An individual is not required to retreat within or from his that individual's dwelling or place of work or from an occupied motor home or travel trailer as defined in section 39-01-01, unless he the individual was the original aggressor or is assailed by a person another individual who he the individual knows also dwells or works there or who is lawfully in the motor home or travel trailer."

Page 2, remove lines 1 through 3

Page 2, line 5, overstrike "a" and replace "vehicle" with "an occupied motor home or travel trailer as defined in section 39-01-01"

Page 2, line 8, replace "vehicle" with "occupied motor home or travel trailer"

Page 3, line 12, replace "defensive" with "deadly"

Page 3, line 13, after "entered" insert "and remains within"

Page 3, line 14, replace "vehicle" with "motor home or travel trailer as defined in section 39-01-01"

Page 3, line 16, replace "vehicle" with "motor home or travel trailer as defined in section 39-01-01"

Page 3, line 17, replace "defensive" with "deadly"

Page 3, after line 19, insert:

"2. The presumption in subsection 1 may be rebutted by proof beyond a reasonable doubt that the individual who used the deadly force did not have a reasonable fear of imminent peril of death or serious bodily injury to that individual or another."

Page 3, line 20, replace "2." with "3.", after "presumption" insert "in subsection 1", and after "if" insert "the court finds that any of the following have occurred"

Page 3, line 21, replace "defensive" with "deadly"

Page 3, line 22, replace "vehicle" with "occupied motor home or travel trailer as defined in section 39-01-01"

Page 3, line 23, replace "an injunction for protection from" with "a temporary or permanent"

Page 3, line 24, replace "or a written pretrial supervision" with "protection" and after "order" insert "or any other order"

Page 3, line 26, after "individual" insert "removed or"

Page 3, line 28, replace "defensive" with "deadly"

Page 3, line 29, replace "defensive" with "deadly" and replace "an unlawful activity" with "the commission of a crime"

Page 3, line 30, replace "vehicle" with "motor home or travel trailer as defined in section 39-01-01" and replace "an unlawful" with "the commission of a crime"

Page 3, line 31, remove "activity"

Page 4, line 1, replace "defensive" with "deadly"

Page 4, line 2, replace "vehicle" with "occupied motor home or travel trailer as defined in section 39-01-01"

Page 4, line 3, after "identification" insert ", if required,"

Page 4, line 4, after "law" insert "or warrant from a court," and after the first "or" insert "if"

Page 4, line 11, replace "unless" with "to" and after "used" insert "or to that individual's estate unless that individual"

Page 4, line 13, after "identification" insert ", if required,", after "law" insert "or warrant from a court,", and after "or" insert "if"

Page 4, line 16, replace the first underscored comma with "and" and replace ", compensation for" with "and disbursements"

Page 4, line 17, remove "loss of income, and all expenses"

Page 4, remove lines 20 through 25

Renumber accordingly