

other felony offense; during a telephone call with his ex-girlfriend, defendant threatened to shoot their daughter, who was staying at his home, when she arrived to retrieve the daughter, defendant displayed a firearm and ordered her to back off, and he presented no evidence and never claimed that his ex-girlfriend or her brothers, whom he was allegedly in fear of, had attempted to enter his home when he threatened her. *U.S. v. Rogers*, C.A.11 (Fla.)2014, 578 Fed.Appx. 911, 2014 WL 4179956. Sentencing and Punishment ☞ 731

16. Review

Appellate review of the Circuit Court's ruling on a "Stand Your Ground" statutory immunity claim is governed by the same standard which applies in an appeal from an order denying a motion to suppress, that is, the court's findings of fact must be supported by competent substantial evidence. *Hair v. State*, App. 1 Dist., 17

So.3d 804 (2009), rehearing denied, review denied 60 So.3d 1055. Criminal Law ☞ 1158.4

State preserved constitutional challenge to retroactive application of statute expanding right of self-defense by abolishing common-law duty to retreat before using deadly force; state objected to defendant's proposed jury instruction and sought immediate review, District Court of Appeal required parties to discuss constitutional issue, and, thus, the practical effect of a specific, contemporaneous objection occurred. *Smiley v. State*, 966 So.2d 330 (2007), rehearing denied. Criminal Law ☞ 1030(2)

The issue of whether retroactive application of self-defense statute to cases pending at the time of its enactment was a pure question of law subject to de novo review. *Smiley v. State*, 966 So.2d 330 (2007), rehearing denied. Criminal Law ☞ 1139

776.021. Repealed by Laws 1975, c. 75–298, § 46

Historical and Statutory Notes

The repealed section, which related to the use of force to defend a dwelling, was added by Laws 1974, c. 74–383, § 13.

776.03. Renumbered as 777.03 by Laws 1974, c. 74–383, § 65

776.031. Use or threatened use of force in defense of property

(1) A person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or terminate the other's trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.

(2) A person is justified in using or threatening to use deadly force only if he or she reasonably believes that such conduct is necessary to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

Laws 1974, c. 74–383, § 13. Amended by Laws 1997, c. 97–102, § 1189, eff. July 1, 1997; Laws 2005, c. 2005–27, § 3, eff. Oct. 1, 2005; Laws 2014, c. 2014–195, § 5, eff. June 20, 2014.

Historical and Statutory Notes

Amendment Notes:

Laws 1997, c. 97–102, eff. July 1, 1997, removed gender-specific references applicable to human beings from volume 4 of the Florida Statutes without substantive changes in legal effect.

Laws 2005, c. 2005–27, § 3, added the last sentence, relating to the duty to retreat.

Laws 2014, c. 2014–195, § 5, rewrote this section, which formerly read:

“A person is justified in the use of force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or

terminate the other’s trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. However, the person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony. A person does not have a duty to retreat if the person is in a place where he or she has a right to be.”

Law Review and Journal Commentaries

Florida’s “Stand Your Ground” law: The actual effects and the need the clarification.

Zachary L. Weaver, 63 U.Miami L.Rev. 395 (Oct. 2008).

Library References

Assault and Battery ☞68, 69.
Homicide ☞757 to 761.
Westlaw Topic Nos. 37, 203.

C.J.S. Assault §§ 114 to 117.
C.J.S. Homicide §§ 166 to 177.

Research References

ALR Library

76 ALR 6th 1, Construction and Application of “Make My Day” and “Stand Your Ground” Statutes.

169 ALR 315, Comment Note.—Duty in Instructing Jury in Criminal Prosecution to Explain and Define Offense Charged.

18 ALR 1279, Homicide: Duty to Retreat When Not on One’s Own Premises.

Encyclopedias

Privileged Use of Force in Self-Defense, 33 Am. Jur. Proof of Facts 2d 211.

Self-Defense; Immunity Under Stand Your Ground Law, Generally, Fla. Jur. 2d Assault—Civil Aspects § 14.

Defense of Property, Fla. Jur. 2d Assault—Civil Aspects § 20.

Limitations on Right to Bear Arms, Fla. Jur. 2d Constitutional Law § 345.

Defense of Property; “Castle Doctrine”, Fla. Jur. 2d Criminal Law Substantive Principles and Offenses § 264.

Deadly Force, Fla. Jur. 2d Criminal Law Substantive Principles and Offenses § 266.

Generally; Statutory Abolishment of Common-Law Duty to Retreat, Fla. Jur. 2d Criminal

Law Substantive Principles and Offenses § 523.

Use of Standard Jury Instructions, Fla. Jur. 2d Criminal Law Substantive Principles and Offenses § 565.

Right to Nonretreat in the Home, Fla. Jur. 2d Criminal Law Substantive Principles and Offenses § 570.

Requisite Intent, Fla. Jur. 2d Criminal Law Substantive Principles and Offenses § 777.

Jury Instructions, Fla. Jur. 2d Criminal Law Substantive Principles and Offenses § 785.

Decedent’s Criminal Conduct; Defendant’s Self-Defense, Fla. Jur. 2d Death § 28.

Forms

Florida Pleading and Practice Forms § 22:2, Defenses.

Florida Pleading and Practice Forms § 22:38, Answer—Defense—Force Used was Necessary to Defend Property—Plaintiff Attempting to Break Into Dwelling.

Treatises and Practice Aids

22 Florida Practice Series § 13:7, Motion to Dismiss the Indictment or Information—Immunity.

Notes of Decisions

2005-25

No. 2042

ing s. 250.175, F.S.; creating the in the Department of Military ds and purposes; providing for ing for future review and termi- id; providing an effective date.

State of Florida:

ection 250.175, Florida Statutes, to

ame; purpose.—

d is created within the Department

und shall consist of funds collected dy Families Block Grant.

clusively for the purpose of provid- nporary Assistance for Needy Fam- limitations of part A of Title IV of ny other applicable federal require-

of s. 216.301 and pursuant to s. at the end of any fiscal year shall the year and shall be available for und.

t. III of the State Constitution, the nless terminated earlier, be termi- ed termination, the trust fund shall 1) and (2).

July 1, 2005.

005.

il 14, 2005.

CHAPTER 2005-26

Senate Bill No. 292

An act relating to citrus canker eradication; repealing s. 4 of ch. 2002-11, Laws of Florida; abrogating the repeal of s. 581.184(1)(b), F.S., which defines the term “exposed to infection” for purposes for eradicating citrus canker disease; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 4 of chapter 2002-11, Laws of Florida, is repealed.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor April 14, 2005.

Filed in Office Secretary of State April 14, 2005.

CHAPTER 2005-27

Committee Substitute for
Committee Substitute for Senate Bill No. 436

An act relating to the protection of persons and property; creating s. 776.013, F.S.; authorizing a person to use force, including deadly force, against an intruder or attacker in a dwelling, residence, or vehicle under specified circumstances; creating a presumption that a reasonable fear of death or great bodily harm exists under certain circumstances; creating a presumption that a person acts with the intent to use force or violence under specified circumstances; providing definitions; amending ss. 776.012 and 776.031, F.S.; providing that a person is justified in using deadly force under certain circumstances; declaring that a person has no duty to retreat and has the right to stand his or her ground and meet force with force if the person is in a place where he or she has a right to be and the force is necessary to prevent death, great bodily harm, or the commission of a forcible felony; creating s. 776.032, F.S.; providing immunity from criminal prosecution or civil action for using deadly force; defining the term “criminal prosecution”; authorizing a law enforcement agency to investigate the use of deadly force but prohibiting the agency from arresting the person unless the agency determines that there is probable cause that the force the person used was unlawful; providing for the award of attorney’s fees, court costs, compensation for loss of income, and other expenses to a defendant in a civil suit who was immune from prosecution under this section; providing an effective date.

is proper for law-abiding people
others from intruders and attack-
ion for acting in defense of them-

mon-law doctrine of ancient ori-
is his or her castle, and

State Constitution guarantees the
se of themselves, and

visiting this state have a right to
homes or vehicles, and

e should be required to surrender
nor should a person or victim be
ce of intrusion or attack, NOW,

State of Florida:

Statutes, is created to read:

Force; presumption of fear of

a reasonable fear of imminent peril
or herself or another when using
to cause death or great bodily harm

Defensive force was used was in the
ing, or had unlawfully and forcibly
ied vehicle, or if that person had
another against that person's will
l vehicle; and

orce knew or had reason to believe
lawful and forcible act was occur-

Section (1) does not apply if:

nsive force is used has the right to
ling, residence, or vehicle, such as
e is not an injunction for protection
rial supervision order of no contact

removed is a child or grandchild,
under the lawful guardianship of,
force is used; or

(c) The person who uses defensive force is engaged in an unlawful activ-
ity or is using the dwelling, residence, or occupied vehicle to further an
unlawful activity; or

(d) The person against whom the defensive force is used is a law enforce-
ment officer, as defined in s. 943.10(14), who enters or attempts to enter a
dwelling, residence, or vehicle in the performance of his or her official duties
and the officer identified himself or herself in accordance with any applica-
ble law or the person using force knew or reasonably should have known that
the person entering or attempting to enter was a law enforcement officer.

(3) A person who is not engaged in an unlawful activity and who is
attacked in any other place where he or she has a right to be has no duty
to retreat and has the right to stand his or her ground and meet force with
force, including deadly force if he or she reasonably believes it is necessary
to do so to prevent death or great bodily harm to himself or herself or another
or to prevent the commission of a forcible felony.

(4) 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 violence.

(5) As used in this section, the term:

(a) "Dwelling" means a building or conveyance of any kind, including any
attached porch, whether the building or conveyance is temporary or perma-
nent, mobile or immobile, which has a roof over it, including a tent, and is
designed to be occupied by people lodging therein at night.

(b) "Residence" means a dwelling in which a person resides either tempo-
rarily or permanently or is visiting as an invited guest.

(c) "Vehicle" means a conveyance of any kind, whether or not motorized,
which is designed to transport people or property.

Section 2. Section 776.012, Florida Statutes, is amended to read:

776.012 Use of force in defense of person.—A person is justified in using
the use of force, except deadly force, against another when and to the extent
that the person reasonably believes that such conduct is necessary to defend
himself or herself or another against the such other's imminent use of un-
lawful force. However, a the person is justified in the use of deadly force and
does not have a duty to retreat only if:

(a) He or she reasonably believes that such force is necessary to prevent
imminent death or great bodily harm to himself or herself or another or to
prevent the imminent commission of a forcible felony; or-

(b) Under those circumstances permitted pursuant to s. 776.013.

Section 3. Section 776.031, Florida Statutes, is amended to read:

776.031 Use of force in defense of others.—A person is justified in the use
of force, except deadly force, against another when and to the extent that the

person reasonably believes that such conduct is necessary to prevent or terminate the such other's trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. However, the person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony. A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

Section 4. Section 776.032, Florida Statutes, is created to read:

776.032 Immunity from criminal prosecution and civil action for justifiable use of force.—

(1) A person who uses force as permitted in s. 776.012, s. 776.013, or s. 776.031 is justified in using such force and is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer, as defined in s. 943.10(14), who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

(2) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (1), but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.

(3) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).

Section 5. This act shall take effect October 1, 2005.

Approved by the Governor April 26, 2005.

Filed in Office Secretary of State April 26, 2005.

CHAPTER 2005-28

House Bill No. 1877

An act relating to high-risk offenders; providing a short title; amending s. 216.136, F.S.; assigning additional responsibilities of the Criminal Justice Estimating Conference; requiring a study; amending s. 775.21, F.S.; revising sexual predator criteria; extending the

period for a petition to remove
ing twice yearly reregistratio
istration information be provi
ment; providing criminal offer
respond to address verificatio
information about a sexual pr
sexual predator; requiring to
predators; requiring reregistr
Department of Law Enforcere
failing to reregister, failing to
to report or providing false inf
harboring or concealing a se
F.S.; providing for specified s
life felony offense in s. 800.04
datory minimum term of imp
providing that it is a life felo
older to commit lewd or las
younger than 12 years of age;
ranking for offenses involving
failing to comply with registr
involving sexual predators ar
with registration requiremen
new criminal offenses for faili
address verification, failing to
about a sexual predator or sexi
ing a sexual predator or sexual
felony degree of a lewd or las
F.S.; providing an additional
to sexual predators for the pu
amending s. 943.043, F.S., re
forcement to provide to local l
on sexual predators and sex
address verification attempts
ing s. 943.0435, F.S.; requiring
offenders; requiring reregistr
Department of Law Enforcen
failing to reregister, failing to
to report or providing false inf
harboring or concealing a se
F.S.; requiring a search of the
registry by entities providir
944.607, F.S.; requiring twice
ers; requiring reregistration i
ment of Law Enforcement; pr
reregister, failing to respond to
or providing false information
ing or concealing a sexual of
requiring electronic monitorin
ditional release supervision; a
a court finding with regard to
release on bail under certain

HISTORY OF SENATE BILLS

S 424 (CONTINUED)
04/20/05 SENATE

Conference Committee appointed: Senators Carlton, Chair; Ways and Means; Education Appropriations: Alexander, Chair; Bullard, Constantine, King, Klein, Lynn, Miller, Wise; General Government Appropriations: Clary, Chair; Baker, Garcia, Lawson; Health and Human Services Appropriations: Saunders, Chair; Bennett, Dawson, Jones, Peaden, Pruitt, Rich, Wilson; Justice Appropriations: Crist, Chair; Argenziano, Aronberg, Siplin, Smith, Villalobos; Transportation and Economic Development Appropriations: Fasano, Chair; Dockery, Hill, Margolis, Sebesta, Webster –SJ 00534

05/06/05 SENATE Conference Committee Report received –SJ 01287; Conference Committee Report adopted –SJ 01289; Passed as amended by Conference Committee Report; YEAS 36 NAYS 3 –SJ 01289

05/06/05 HOUSE In returning messages; Conference Committee Report received –HJ 01664; Conference Committee Report adopted –HJ 01664; Passed as amended by Conference Committee Report; YEAS 87 NAYS 29 –HJ 01666

05/06/05 SENATE Ordered engrossed, then enrolled –SJ 01662
05/24/05 Signed by Officers and presented to Governor
06/01/05 Approved by Governor; Chapter No. 2005–97

S 426 GENERAL BILL by Carlton

Governmental Operations; expresses legislative intent to revise laws re governmental operations. Effective Date: Upon becoming law.

12/03/04 SENATE Filed

12/17/04 SENATE Referred to Ways and Means

03/08/05 SENATE Introduced, referred to Ways and Means –SJ 00030

04/21/05 SENATE On Committee agenda—Ways and Means, 04/26/05, 5:15 pm, 412–K—Not considered

05/06/05 SENATE Died in Committee on Ways and Means

S 428 GENERAL BILL/CS/CS by Health and Human Services Appropriations; Health Care; Rich; (CO-SPONSORS) Klein; Wilson (Similar 1ST ENG/H 0017)

Developmental Disabilities; requires AHCA to develop model waiver program to serve children with specified disorders; requires agency to seek federal waiver approval & implement approved waiver subject to availability of funds & certain limitations; authorizes rules. Amends 409.912. Appropriation: \$418,000. Effective Date: 07/01/2005.

12/03/04 SENATE Filed

12/17/04 SENATE Referred to Children and Families; Health Care; Health and Human Services Appropriations

01/14/05 SENATE On Committee agenda—Children and Families, 01/25/05, 2:00 pm, 301–S

01/25/05 SENATE Favorable with 1 amendment(s) by Children and Families; YEAS 6 NAYS 0

Now in Health Care

01/26/05 SENATE On Committee agenda—Health Care, 02/23/05, 2:00 pm, 412–K

02/23/05 SENATE CS by Health Care; YEAS 9 NAYS 0

02/24/05 SENATE Now in Health and Human Services Appropriations

03/08/05 SENATE Introduced, referred to Children and Families; Health Care; Health and Human Services Appropriations –SJ 00030; On Committee agenda—Children and Families, 01/25/05, 2:00 pm, 301–S; Favorable with 1 amendment(s) by Children and Families; YEAS 6 NAYS 0 –SJ 00102; Now in Health Care –SJ 00102; On Committee agenda—Health Care, 02/23/05, 2:00 pm, 412–K; CS by Health Care; YEAS 9 NAYS 0 –SJ 00104; CS read first time on 03/08/05 –SJ 00097; Now in Health and Human Services Appropriations –SJ 00104

04/21/05 SENATE On Committee agenda—Health and Human Services Appropriations, 04/26/05, 3:00 pm, 401–S

04/26/05 SENATE CS/CS by—Health and Human Services Appropriations; YEAS 8 NAYS 0 –SJ 00640; CS read first time on 04/27/05 –SJ 00640

04/27/05 SENATE Placed on Calendar, on second reading –SJ 00640

04/29/05 SENATE Placed on Special Order Calendar –SJ 00744; Read second time –SJ 00728

05/02/05 SENATE Substituted HB 17 –SJ 00811; Laid on Table, Link/Iden/Sim/Compare passed, refer to HB 17 (Ch. 2005–115)

S 430 GENERAL BILL by King; (CO-SPONSORS) Fasano (Compare H 1101, H 1897, CS/1ST ENG/S 0410, S 2210)

Nursing; provides short title of “Clara Ramsey Care of the Elderly Act”; requires Agency for Workforce Innovation to establish pilot program for delivery of certified geriatric specialty nursing education; specifies eligibility requirements for certified nursing assistant to obtain certification as geriatric specialist; includes services provided by certified geriatric specialist within definition of nursing service, etc. Amends FS. Appropriation: \$157,017. Effective Date: Upon becoming law.

12/03/04 SENATE Filed

S 430 (CONTINUED)

12/17/04 SENATE Referred to Health Care; Commerce and Consumer Services; Criminal Justice; Transportation and Economic Development Appropriations

03/08/05 SENATE Introduced, referred to Health Care; Commerce and Consumer Services; Criminal Justice; Transportation and Economic Development Appropriations –SJ 00030

05/06/05 SENATE Died in Committee on Health Care, Link/Iden/Sim/Compare passed, refer to CS/SB 410 (Ch. 2005–62)

S 432 GENERAL BILL by Lynn

Consumption of Alcohol; provides that it is a crime for person under 21 years of age to consume alcohol; provides penalties; provides for use of certain tests as evidence of violation; reenacts provisions for purpose of incorporating amendment to specified provision in reference thereto. Amends 562.111; reenacts 322.056(1), 397.951(2)(i). Effective Date: Upon becoming law.

12/03/04 SENATE Filed

12/17/04 SENATE Referred to Criminal Justice; Justice Appropriations

03/08/05 SENATE Introduced, referred to Criminal Justice; Justice Appropriations –SJ 00031

05/06/05 SENATE Died in Committee on Criminal Justice

S 434 GENERAL BILL/CS/CS/2ND ENG by Commerce and Consumer Services; Governmental Oversight and Productivity; Wise; (CO-SPONSORS) Fasano; Haridopolos; Rich; Jones (Compare H 0153)

Disabilities/Service Animals; provides that individual with disability has full & equal access to & enjoyment of public accommodations; provides that said individual may be accompanied by service animal in places of public accommodation; directs Fla. Americans with Disabilities Act Working Group & Human Relations Commission to provide recommendations to Executive Office of Governor, etc. Amends 413.08,.081. Effective Date: 07/01/2005.

12/07/04 SENATE Filed

12/17/04 SENATE Referred to Community Affairs; Governmental Oversight and Productivity; Commerce and Consumer Services

01/31/05 SENATE On Committee agenda—Community Affairs, 02/08/05, 9:00 am, 401–S

02/08/05 SENATE Favorable by Community Affairs; YEAS 7 NAYS 0

02/09/05 SENATE Now in Governmental Oversight and Productivity

02/15/05 SENATE On Committee agenda—Governmental Oversight and Productivity, 02/23/05, 2:00 pm, 110–S

02/23/05 SENATE CS by Governmental Oversight and Productivity; YEAS 4 NAYS 1

02/25/05 SENATE Now in Commerce and Consumer Services

03/08/05 SENATE Introduced, referred to Community Affairs; Governmental Oversight and Productivity; Commerce and Consumer Services –SJ 00031; On Committee agenda—Community Affairs, 02/08/05, 9:00 am, 401–S; Favorable by Community Affairs; YEAS 7 NAYS 0 –SJ 00102; Now in Governmental Oversight and Productivity –SJ 00102; On Committee agenda—Governmental Oversight and Productivity, 02/23/05, 2:00 pm, 110–S; CS by Governmental Oversight and Productivity; YEAS 4 NAYS 1 –SJ 00104; CS read first time on 03/08/05 –SJ 00098; Now in Commerce and Consumer Services –SJ 00104; On Committee agenda—Commerce and Consumer Services, 03/09/05, 9:00 am, 401–S

03/09/05 SENATE CS/CS by—Commerce and Consumer Services; YEAS 6 NAYS 0 –SJ 00135; CS read first time on 03/10/05 –SJ 00147; Placed on Calendar, on second reading –SJ 00135

03/17/05 SENATE Placed on Special Order Calendar –SJ 00227; Read second time –SJ 00223; Amendment(s) adopted –SJ 00223; Ordered engrossed –SJ 00225

03/18/05 SENATE Read third time –SJ 00237; CS passed as amended; YEAS 38 NAYS 0 –SJ 00237

In Messages

03/22/05 HOUSE Received, referred to Calendar –HJ 00902

04/27/05 HOUSE Substituted for HB 153 –HJ 01077; Read second time –HJ 01077; Amendment(s) adopted –HJ 01077; Read third time –HJ 01079; CS passed as amended; YEAS 114 NAYS 0 –HJ 01079

04/29/05 SENATE In returning messages

05/05/05 SENATE Concurred –SJ 01106; CS passed as amended; YEAS 39 NAYS 0 –SJ 01108; Ordered engrossed, then enrolled –SJ 01108

Signed by Officers and presented to Governor

05/24/05 Approved by Governor; Chapter No. 2005–63

05/26/05

S 436 GENERAL BILL/CS/CS/1ST ENG by Judiciary; Criminal Justice; Peaden; (CO-SPONSORS) Argenziano; Clary; Wise; Lawson; Crist; Baker; Bennett; Posey; Villalobos; Garcia; Fasano; Webster; Lynn; Haridopolos; King; Dockery; Diaz de la Portilla; Bullard; Campbell; Jones; Sebesta; Pruitt; Constantine; Smith; Alexander; Saunders; Aronberg; Klein (Similar H 0249)

Protection of Persons/Use of Force; authorizes person to use force, including deadly force, against intruder or attacker in dwelling, residence, or vehicle un-

(CONTINUED ON NEXT PAGE)

HISTORY OF SENATE BILLS

S 436 (CONTINUED)

- der specified circumstances; provides that person is justified in using deadly force under certain circumstances; provides immunity from criminal prosecution or civil action for using deadly force; defines term "criminal prosecution", etc. Creates 776.013, .032; amends 776.012, .031. Effective Date: 10/01/2005.
- 12/08/04 SENATE Filed
- 12/17/04 SENATE Referred to Criminal Justice; Judiciary
- 01/14/05 SENATE On Committee agenda—Criminal Justice, 01/26/05, 2:00 pm, 37-S—Temporarily postponed
- 01/31/05 SENATE On Committee agenda—Criminal Justice, 02/09/05, 2:00 pm, 37-S
- 02/09/05 SENATE CS by Criminal Justice; YEAS 8 NAYS 0
- 02/10/05 SENATE Now in Judiciary
- 02/15/05 SENATE On Committee agenda—Judiciary, 02/23/05, 2:00 pm, 401-S
- 02/23/05 SENATE CS/CS by—Judiciary; YEAS 7 NAYS 0
- 02/25/05 SENATE Placed on Calendar, on second reading
- 03/08/05 SENATE Introduced, referred to Criminal Justice; Judiciary—SJ 00031; On Committee agenda—Criminal Justice, 01/26/05, 2:00 pm, 37-S—Temporarily postponed; On Committee agenda—Criminal Justice, 02/09/05, 2:00 pm, 37-S; CS by Criminal Justice; YEAS 8 NAYS 0—SJ 00104; CS read first time on 03/08/05—SJ 00098; Now in Judiciary—SJ 00104; On Committee agenda—Judiciary, 02/23/05, 2:00 pm, 401-S; CS/CS by—Judiciary; YEAS 7 NAYS 0—SJ 00105; CS read first time on 03/08/05—SJ 00098; Placed on Calendar, on second reading—SJ 00105
- 03/22/05 SENATE Placed on Special Order Calendar—SJ 00246; Read second time—SJ 00244; Amendment(s) adopted—SJ 00244; Amendment(s) failed—SJ 00244; Ordered engrossed—SJ 00244
- 03/23/05 SENATE Read third time—SJ 00262; CS passed as amended; YEAS 39 NAYS 0—SJ 00263
- 03/30/05 HOUSE In Messages; Received, referred to Calendar—HJ 00298, —HJ 00303
- 03/31/05 HOUSE Substituted for HB 249—HJ 00310; Read second time—HJ 00311; Amendment(s) failed—HJ 00311
- 04/05/05 HOUSE Read third time—HJ 00342; Amendment(s) failed—HJ 00342; CS passed; YEAS 94 NAYS 20—HJ 00342
- 04/07/05 SENATE Ordered enrolled—SJ 00388
- 04/20/05 Signed by Officers and presented to Governor—SJ 00535
- 04/26/05 Approved by Governor; Chapter No. 2005-27—SJ 00585

S 440 (CONTINUED)

- 04/12/05 SENATE Favorable by Governmental Oversight and Productivity; YEAS 5 NAYS 0—SJ 00419; Now in Rules and Calendar—SJ 00419
- 04/14/05 SENATE Withdrawn from Rules and Calendar—SJ 00454; Placed on Calendar, on second reading
- 05/06/05 SENATE Died on Calendar, Link/Idem/Sim/Compare passed, refer to CS/CS/SB 444 (Ch. 2005-291)
- S 442 GENERAL BILL/CS/CS/CS/CS/2ND ENG by Governmental Efficiency Appropriations; Banking and Insurance; Regulated Industries; Community Affairs; Bennett; (CO-SPONSORS) Haridopolos; Campbell (Similar H 0621, Compare 1ST ENG/H 0041, 1ST ENG/H 0567, 2ND ENG/H 0835, H 1207, 1ST ENG/H 1267, 2ND ENG/H 1697, H 1941, CS/CS/CS/S 0454, CS/CS/S 0634, S 0982, CS/S 1232, CS/S 1470, CS/S 2286)
- Building Safety; requires that specified percentage of funds appropriated under Hurricane Loss Mitigation Program be used for education concerning Florida Building Code & for operation of disaster contractors network; provides that Insurance Regulation Office make recommendations to insurance industry based on report re Hurricane Loss Mitigation Program by DCA; provides legislative intent re interpretation of said code, etc. Amends FS. Appropriation: \$200,000. Effective Date: 07/01/2005 except a. 1 takes effect July 1, 2006.
- 12/08/04 SENATE Filed
- 12/17/04 SENATE Referred to Community Affairs; Regulated Industries; Banking and Insurance; Government Efficiency Appropriations
- 02/15/05 SENATE On Committee agenda—Community Affairs, 02/22/05, 9:00 am, 401-S
- 02/22/05 SENATE CS by Community Affairs; YEAS 8 NAYS 0
- 02/28/05 SENATE Now in Regulated Industries
- 03/08/05 SENATE Introduced, referred to Community Affairs; Regulated Industries; Banking and Insurance; Government Efficiency Appropriations—SJ 00032; On Committee agenda—Community Affairs, 02/22/05, 9:00 am, 401-S; CS by Community Affairs; YEAS 8 NAYS 0—SJ 00104; CS read first time on 03/08/05—SJ 00098; Now in Regulated Industries—SJ 00104
- 03/11/05 SENATE On Committee agenda—Regulated Industries, 03/16/05, 1:00 pm, 110-S
- 03/16/05 SENATE CS/CS by Regulated Industries; YEAS 10 NAYS 0—SJ 00239; CS read first time on 03/18/05—SJ 00239
- 03/17/05 SENATE Now in Banking and Insurance—SJ 00239
- 04/08/05 SENATE On Committee agenda—Banking and Insurance, 04/13/05, 2:00 pm, 412-K
- 04/13/05 SENATE CS/CS/CS by Banking and Insurance; YEAS 10 NAYS 0—SJ 00463; CS read first time on 04/19/05—SJ 00465
- 04/15/05 SENATE Now in Government Efficiency Appropriations—SJ 00463
- 04/18/05 SENATE On Committee agenda—Government Efficiency Appropriations, 04/21/05, 9:15 am, 110-S
- 04/21/05 SENATE CS/CS/CS/CS by—Government Efficiency Appropriations; YEAS 6 NAYS 0—SJ 00567; CS read first time on 04/26/05—SJ 00570
- 04/25/05 SENATE Placed on Calendar, on second reading—SJ 00567
- 05/02/05 SENATE Placed on Special Order Calendar—SJ 00811; Read second time—SJ 00777; Amendment(s) adopted—SJ 00778; Ordered engrossed—SJ 00781
- 05/04/05 SENATE Read third time—SJ 01058; Amendment(s) adopted—SJ 01059; CS passed as amended; YEAS 39 NAYS 0—SJ 01060
- 05/04/05 HOUSE In Messages
- 05/06/05 HOUSE Received—HJ 01563; Read second time—HJ 01564; Read third time—HJ 01932; CS passed; YEAS 115 NAYS 1—HJ 01933
- 05/06/05 SENATE Ordered enrolled—SJ 01661
- 05/24/05 Signed by Officers and presented to Governor
- 06/08/05 Governor vetoed specific Line Item(s); Approved by Governor; Chapter No. 2005-147; See also HB 41 (Ch. 2005-116), HB 567 (Ch. 2005-216), HB 1267 (Ch. 2005-234), HB 1697 (Ch. 2005-164)
- S 444 GENERAL BILL/CS/CS/CS/1ST ENG by Ways and Means Governmental Oversight and Productivity; Environmental Preservation; Dockery; (CO-SPONSORS) Argenziano; Lynn (Linked CS/CS/S 0332, Compare H 1453, H 1795, 1ST ENG/H 1839, 2ND ENG/H 1855, 1ST ENG/H 1865, H 1881, CS/CS/CS/3RD ENG/S 0360, CS/S 0440, CS/1ST ENG/S 1748, CS/S 2322, CS/CS/1ST ENG/S 2502)
- Water Supplies; encourages cooperation in development of water supplies; encourages municipalities, counties, & special districts to create regional water supply authorities; requires water management districts to detail specific allocations to be used for alternative water supply development in their annual budget submission; establishes economic incentives for alternative water supply development, etc. Amends Chs. 163, 373, 403, 570.085. Effective Date: 06/24/2005 except as otherwise provided.
- 12/08/04 SENATE Filed

S 438 GENERAL BILL by Lynn; (CO-SPONSORS) Haridopolos

- DUI/Test Refusal; requires that person whom law enforcement officer believes is operating motor vehicle or commercial motor vehicle while under influence of alcohol, chemical substances, or controlled substances be told that if he or she refuses to submit to test of his or her breath, blood, or urine for alcohol or said substances, refusal will result in person being taken into immediate custody by law enforcement officer, etc. Amends 316.1932, 1939, 322.63. Effective Date: 07/01/2005.
- 12/08/04 SENATE Filed
- 12/17/04 SENATE Referred to Criminal Justice; Transportation; Justice Appropriations
- 03/08/05 SENATE Introduced, referred to Criminal Justice; Transportation; Justice Appropriations—SJ 00031
- 05/06/05 SENATE Died in Committee on Criminal Justice

S 440 GENERAL BILL/CS by Environmental Preservation; Dockery (Compare CS/CS/CS/1ST ENG/S 0444)

- Water Supply, Planning, & Production; creates provisions re water supply policy, planning, & production; provides for powers & duties of WMD governing boards; requires DEP to develop Florida water supply plan; provides legislative findings & intent re water resource development & water supply development & to alternative water supplies; requires WMDs to fund & implement said development; repeals provision re assistance to West Coast Regional Water Supply Authority, etc. Amends FS. Effective Date: 07/01/2005.
- 12/08/04 SENATE Filed
- 12/17/04 SENATE Referred to Environmental Preservation; Governmental Oversight and Productivity; Rules and Calendar
- 03/08/05 SENATE Introduced, referred to Environmental Preservation; Governmental Oversight and Productivity; Rules and Calendar—SJ 00032
- 03/16/05 SENATE On Committee agenda—Environmental Preservation, 03/21/05, 2:45 pm, 401-S
- 03/21/05 SENATE CS by Environmental Preservation; YEAS 7 NAYS 0—SJ 00266; CS read first time on 03/23/05—SJ 00285
- 03/23/05 SENATE Now in Governmental Oversight and Productivity—SJ 00266
- 04/01/05 SENATE On Committee agenda—Governmental Oversight and Productivity, 04/06/05, 2:00 pm, 110-S—Temporarily postponed
- 04/07/05 SENATE On Committee agenda—Governmental Oversight and Productivity, 04/12/05, 9:00 am, 110-S

of Environmental Protection may adopt rules to implement the specific recommendations set forth in sections C.2. and C.4. of its report entitled "A Strategy for Water Quality Protection: Wastewater Treatment in the Wekiva Study Area," dated December 2004, in order to achieve nitrogen reductions protective of surface and groundwater quality in the Wekiva Study Area and implement Recommendation 8 of the Wekiva River Basin Coordinating Committee's final report dated March 16, 2004 shall, if appropriate, by March 1, 2005, initiate rulemaking to achieve nitrogen reductions protective of surface and groundwater quality or recommend any additional statutory authority needed to implement the report recommendations.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 3, after "Act," insert: amending s. 369.318, F.S.; clarifying the Department of Environmental Protection's rulemaking authority to implement certain recommendations;

Pursuant to Rule 4.19, **SB 908** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Margolis—

SB 724—A bill to be entitled An act relating to affordable housing for the elderly; amending s. 420.5087, F.S.; increasing the cap on certain loan amounts available to sponsors of housing for the elderly; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 724** was placed on the calendar of Bills on Third Reading.

On motion by Senator Aronberg—

CS for SB 512—A bill to be entitled An act relating to protective injunctions; amending s. 784.046, F.S.; providing standing for a governmental employer to seek an injunction for protection against repeat violence on behalf of an employee; revising the application of evidentiary requirements with respect to injunctions for protection of minor children; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 512** was placed on the calendar of Bills on Third Reading.

On motion by Senator Peadar—

CS for CS for SB 436—A bill to be entitled An act relating to the protection of persons and property; creating s. 776.013, F.S.; authorizing a person to use force, including deadly force, against an intruder or attacker in a dwelling, residence, or vehicle under specified circumstances; creating a presumption that a reasonable fear of death or great bodily harm exists under certain circumstances; creating a presumption that a person acts with the intent to use force or violence under specified circumstances; providing definitions; amending ss. 776.012 and 776.031, F.S.; providing that a person is justified in using deadly force under certain circumstances; declaring that a person has no duty to retreat and has the right to stand his or her ground and meet force with force if the person is in a place where he or she has a right to be and the force is necessary to prevent death, great bodily harm, or the commission of a forcible felony; creating s. 776.032, F.S.; providing immunity from criminal prosecution or civil action for using deadly force; defining the term "criminal prosecution"; authorizing a law enforcement agency to investigate the use of deadly force but prohibiting the agency from arresting the person unless the agency determines that there is probable cause that the force the person used was unlawful; providing for the award of attorney's fees, court costs, compensation for loss of income, and other expenses to a defendant in a civil suit who was immune from prosecution under this section; providing an effective date.

—was read the second time by title.

Senator Smith moved the following amendments which were adopted:

Amendment 1 (844260)—On page 4, line 7, after "person" insert: *who is not engaged in an unlawful activity and*

Amendment 2 (591424)—On page 6, line 5, delete "described" and insert: *permitted*

MOTION

On motion by Senator Geller, the rules were waived to allow the following amendment to be considered:

Senator Geller moved the following amendment which failed:

Amendment 3 (494914)—On page 4, lines 7-13, delete those lines

Pursuant to Rule 4.19, **CS for CS for SB 436** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

SB 532—A bill to be entitled An act relating to court-ordered payment awards in legal proceedings; amending ss. 61.16 and 742.045, F.S.; authorizing certain court orders to include additional reasonable amounts for certain attorney's fees, suit money, and costs related to certain proceedings; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 532** was placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano—

CS for SB 1012—A bill to be entitled An act relating to professions regulated by the Department of Business and Professional Regulation; amending s. 455.271, F.S.; providing for the reinstatement of certain voided licenses; providing requirements for application and reinstatement of voided licenses, including fees, continuing education, and eligibility; providing an exemption; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1012** was placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano—

SB 730—A bill to be entitled An act relating to the prohibition on prostitution; amending s. 796.07, F.S.; redefining the term "lewdness" to mean an indecent or obscene act done in the presence of any person, including a law enforcement officer; providing an effective date.

—was read the second time by title.

Senator Fasano moved the following amendment which was adopted:

Amendment 1 (103590)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution, etc.; evidence; penalties; definitions.—

(1) As used in this section:

(b) "Lewdness" means any indecent or obscene act that may cause substantial offense to one or more persons viewing it or may otherwise substantially intrude upon the rights of others. A lewd act may be offensive to, or may intrude upon the rights of, a person who is a law enforcement officer. Lewdness is to be determined based on what a reasonable member of the public might find substantially offensive.