

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Bill No. 745, Page 6, Section 544.216, Line 18, by inserting
2 immediately after said line the following:

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

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

9 (a) He or she has withdrawn from the encounter and effectively communicated such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

12 (b) He or she is a law enforcement officer and as such is an aggressor [pursuant to] under
13 section 563.046; or

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

16 (2) Under the circumstances as the actor reasonably believes them to be, the person whom he
17 or she seeks to protect would not be justified in using such protective force;

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

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

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

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

27 (3) Such force is used against a person who unlawfully enters, remains after unlawfully
28 entering, or attempts to unlawfully enter private property that is owned or leased by an individual, or
29 is occupied by an individual who has been given specific authority by the property owner to occupy
30 the property, claiming a justification of using protective force under this section.

Action Taken _____ Date _____

1 3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where the
2 person is not unlawfully entering or unlawfully remaining. A person does not have a duty to retreat
3 from private property that is owned or leased by such individual.

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

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

12
13 Further amend said bill by amending the title, enacting clause, and intersectional references
14 accordingly.