

HB 363 -- USE OF SELF DEFENSE

SPONSOR: Sparks

Currently, a defendant in a criminal proceeding claiming self defense has the burden to prove he or she reasonably believed physical or deadly force was necessary to protect him or herself or a third person.

This bill provides that there will instead be a presumption of reasonableness that the defendant believed such force was necessary to defend him or herself or a third person. The defendant can raise a claim of self-defense during a pre-trial hearing in either a criminal or civil case, and shift the burden on the party seeking to overcome the immunity by proof of clear and convincing evidence.

The bill also specifies that a person who uses or threatens to use force in self-defense is immune from criminal prosecution and civil action for the use of such force, unless specified exceptions apply. A law enforcement agency may use standard procedures for investigating the use or threatened use of force, but the agency may not arrest the person for using or threatening to use force unless the agency determines that there is probable cause that the force that was used or threatened was unlawful.

Finally, the bill repeals provisions relating to civil remedies that are unaffected by criminal provisions of self-defense law.

This bill is the same as HB 2559 (2024) and HB 486 (2023).