

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY  
2014CF000216CFAXES-1

STATE OF FLORIDA

V.

CURTIS JUDSON REEVES

FILED FOR RECORD  
PASCO COUNTY, FLORIDA  
2020 NOV 20 PM 2:25  
Clerk of the Circuit Court  
Pasco County, Florida

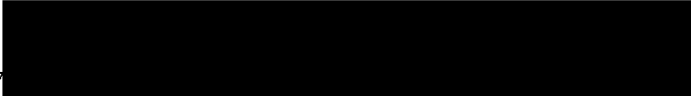
**STATE'S REQUEST FOR JUDICIAL NOTICE**

BERNIE McCABE, State Attorney for the Sixth Judicial Circuit, hereby requests, pursuant to 90.201 and 90.203, Florida Statute (2019), that the Court take judicial notice of Chapter 776.012, Florida Statute, effective Oct. 1, 2005 (2014) and 776.041, Florida Statute, effective July 1, 1997 (2014).

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing State's Request For Judicial Notice was furnished to Richard Escobar, Esq., Attorney for the Defendant, at 2917 West Kennedy Blvd., Suite 100, Tampa, FL 33609-3163, by U.S. Mail or Personal Service this 19<sup>th</sup> day of November, 2020.

BERNIE McCABE, State Attorney  
Sixth Judicial Circuit of Florida

By   
Glenn L. Martin, Jr.  
Assistant State Attorney  
Bar No. 435988  
P.O. Box 5028  
Clearwater, FL 33758  
(727) 464-6221

2005 Fla. Sess. Law Serv. Ch. 2005-27 (C.S.C.S.S.B. 436) (WEST)

FLORIDA 2005 SESSION LAW SERVICE

Nineteenth Legislature, First Regular Session

Additions are indicated by Text; deletions by

~~Text~~. Changes in tables are made but not highlighted.

Chapter 2005-27

C.S.C.S.S.B. No. 436

SELF DEFENSE—DEADLY FORCE

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.

WHEREAS, the Legislature finds that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others, and

WHEREAS, the castle doctrine is a common-law doctrine of ancient origins which declares that a person's home is his or her castle, and

WHEREAS, Section 8 of Article I of the State Constitution guarantees the right of the people to bear arms in defense of themselves, and

WHEREAS, the persons residing in or visiting this state have a right to expect to remain unmolested within their homes or vehicles, and

WHEREAS, no person or victim of crime should be required to surrender his or her personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack, NOW, THEREFORE,

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

Section 1. Section 776.013, Florida Statutes, is created to read:

<< FL ST § 776.013 >>

776.013. Home protection; use of deadly force; presumption of fear of death or great bodily harm

(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:

(a) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and

(b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

(2) The presumption set forth in subsection (1) does not apply if:

(a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or

(b) The person or persons sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

(c) The person who uses defensive force is engaged in an unlawful activity 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 enforcement 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 applicable 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 permanent, 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 temporarily 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:

<< FL ST § 776.012 >>

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 ~~such~~ the other's imminent use of unlawful 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:

<< FL ST § 776.031 >>

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 ~~sueh~~ 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:

<< FL ST § 776.032 >>

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.

FL LEGIS 2005-27

---

End of Document

© 2020 Thomson Reuters. No claim to original U.S. Government Works.

West's Florida Statutes Annotated

Title XLVI. Crimes (Chapters 775-899)

Chapter 776. Justifiable Use of Force (Refs & Annos)

West's F.S.A. § 776.041

776.041. Use or threatened use of force by aggressor

Effective: June 20, 2014

Currentness

The justification described in the preceding sections of this chapter is not available to a person who:

- (1) Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or
- (2) Initially provokes the use or threatened use of force against himself or herself, unless:
  - (a) Such force or threat of force is so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape such danger other than the use or threatened use of force which is likely to cause death or great bodily harm to the assailant; or
  - (b) In good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use or threatened use of force, but the assailant continues or resumes the use or threatened use of force.

**Credits**

Laws 1974, c. 74-383, § 13. Amended by Laws 1997, c. 97-102, § 1190, eff. July 1, 1997; Laws 2014, c. 2014-195, § 7, eff. June 20, 2014.

Notes of Decisions (139)

West's F. S. A. § 776.041, FL ST § 776.041

Current through Chapter 184 (End) of the 2020 Second Regular Session of the Twenty-Sixth Legislature

---



2005 Fla. Sess. Law Serv. Ch. 2005-27 (C.S.C.S.S.B. 436) (WEST)

FLORIDA 2005 SESSION LAW SERVICE

Nineteenth Legislature, First Regular Session

Additions are indicated by Text; deletions by

~~Text~~. Changes in tables are made but not highlighted.

Chapter 2005-27

C.S.C.S.S.B. No. 436

SELF DEFENSE—DEADLY FORCE

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.

WHEREAS, the Legislature finds that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others, and

WHEREAS, the castle doctrine is a common-law doctrine of ancient origins which declares that a person’s home is his or her castle, and

WHEREAS, Section 8 of Article I of the State Constitution guarantees the right of the people to bear arms in defense of themselves, and

WHEREAS, the persons residing in or visiting this state have a right to expect to remain unmolested within their homes or vehicles, and

WHEREAS, no person or victim of crime should be required to surrender his or her personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack, NOW, THEREFORE,

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

Section 1. Section 776.013, Florida Statutes, is created to read:

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY  
2014CF000216CFAXES-1

STATE OF FLORIDA

V.

CURTIS JUDSON REEVES

**ORDER GRANTING STATE'S REQUEST FOR JUDICIAL NOTICE**

The foregoing cause coming on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ STATE'S REQUEST FOR JUDICIAL NOTICE and the same having been argued by counsel for the respective parties and duly considered by the Court, it is

ORDER that the STATE'S REQUEST FOR JUDICIAL NOTICE be and the same are hereby granted.

DONE and ORDERED in Pasco County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Kemba Johnson Lewis  
Circuit Court Judge

cc: Office of the State Attorney  
Richard Escobar, Esq., Attorney for the defendant