

By: Springer

S.B. No. 2346

A BILL TO BE ENTITLED

AN ACT

relating to certain defenses to prosecution involving the justifiable use of force or threat of force.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 9.04, Penal Code, is amended to read as follows:

Sec. 9.04. THREATS AS JUSTIFIABLE FORCE. The threat of force is justified when the use of force is justified by this chapter. For purposes of this section, a threat to cause death or serious bodily injury by the exhibition [~~production~~] of a weapon or otherwise, as long as the actor's purpose is limited to creating an apprehension that the actor [~~he~~] will use deadly force if necessary, does not constitute the use of deadly force.

SECTION 2. Section 9.31(a), Penal Code, is amended to read as follows:

(a) Except as provided in Subsection (b), a person is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force. The actor's belief that the force was immediately necessary as described by this subsection is presumed to be reasonable if the actor:

(1) knew or had reason to believe that the person against whom the force was used:

1 (A) unlawfully and with force entered, or was  
2 attempting to enter unlawfully and with force, the actor's occupied  
3 habitation, vehicle, or place of business or employment;

4 (B) unlawfully and with force removed, or was  
5 attempting to remove unlawfully and with force, the actor from the  
6 actor's habitation, vehicle, or place of business or employment; or

7 (C) was committing or attempting to commit:

8 (i) aggravated kidnapping, murder, sexual  
9 assault, aggravated sexual assault, robbery, or aggravated  
10 robbery; or

11 (ii) arson, if the property intended to be  
12 damaged or destroyed was an occupied building, an occupied  
13 habitation, or an occupied vehicle;

14 (2) did not provoke the person against whom the force  
15 was used; and

16 (3) was not otherwise engaged in criminal activity,  
17 other than a Class C misdemeanor that is a violation of a law or  
18 ordinance regulating traffic at the time the force was used.

19 SECTION 3. Section 9.32(a), Penal Code, is amended to read  
20 as follows:

21 (a) A person is justified in using deadly force against  
22 another:

23 (1) if the actor would be justified in using force  
24 against the other under Section 9.31; and

25 (2) when and to the degree the actor reasonably  
26 believes the deadly force is immediately necessary:

27 (A) to protect the actor against the other's use

1 or attempted use of unlawful deadly force; or

2 (B) to prevent the other's imminent commission  
3 of:

4 (i) aggravated kidnapping, murder, sexual  
5 assault, aggravated sexual assault, robbery, or aggravated  
6 robbery; or

7 (ii) arson, if the property intended to be  
8 damaged or destroyed was an occupied building, an occupied  
9 habitation, or an occupied vehicle.

10 SECTION 4. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect on the date the offense was committed,  
14 and the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense occurred  
17 before that date.

18 SECTION 5. This Act takes effect September 1, 2023.