

By: Driver, King of Parker, Talton, Rose,
Riddle, et al.

H.B. No. 284

Substitute the following for H.B. No. 284:

By: Vaught

C.S.H.B. No. 284

A BILL TO BE ENTITLED

AN ACT

relating to the use of force or deadly force in defense of a person.

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

SECTION 1. Section 9.01, Penal Code, is amended by adding
Subdivisions (4) and (5) to read as follows:

(4) "Habitation" has the meaning assigned by Section
30.01.

(5) "Vehicle" has the meaning assigned by Section
30.01.

SECTION 2. Section 9.31, Penal Code, is amended by amending
Subsection (a) and adding Subsections (e) and (f) 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 ~~[he]~~ reasonably believes the force is immediately necessary
to protect the actor ~~[himself]~~ 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 knew or had reason to believe that the
person against whom the force was used:

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

(2) unlawfully and with force removed, or was

1 attempting to remove unlawfully and with force, the actor from the
2 actor's habitation, vehicle, or place of business or employment; or

3 (3) was committing or attempting to commit aggravated
4 kidnapping, murder, sexual assault, aggravated sexual assault,
5 robbery, or aggravated robbery.

6 (e) A person who has a right to be present at the location
7 where the force is used, who has not provoked the person against
8 whom the force is used, and who is not engaged in criminal activity
9 at the time the force is used is not required to retreat before
10 using force as described by this section.

11 (f) For purposes of Subsection (a), in determining whether
12 an actor described by Subsection (e) reasonably believed that the
13 use of force was necessary, a finder of fact may not consider
14 whether the actor failed to retreat.

15 SECTION 3. Section 9.32, Penal Code, is amended to read as
16 follows:

17 Sec. 9.32. DEADLY FORCE IN DEFENSE OF PERSON. (a) A person
18 is justified in using deadly force against another:

19 (1) if the actor [~~he~~] would be justified in using force
20 against the other under Section 9.31; and

21 ~~(2) [if a reasonable person in the actor's situation~~
22 ~~would not have retreated, and~~

23 [~~(3)~~] when and to the degree the actor [~~he~~] reasonably
24 believes the deadly force is immediately necessary:

25 (A) to protect the actor [~~himself~~] against the
26 other's use or attempted use of unlawful deadly force; or

27 (B) to prevent the other's imminent commission of

1 aggravated kidnapping, murder, sexual assault, aggravated sexual
2 assault, robbery, or aggravated robbery.

3 (b) The actor's belief under Subsection (a)(2) that the
4 deadly force was immediately necessary as described by that
5 subdivision is presumed to be reasonable if the actor knew or had
6 reason to believe that the person against whom the deadly force was
7 used:

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

11 (2) unlawfully and with force removed, or was
12 attempting to remove unlawfully and with force, the actor from the
13 actor's habitation, vehicle, or place of business or employment of
14 the actor; or

15 (3) was committing or attempting to commit an offense
16 described by Subsection (a)(2)(B) [~~The requirement imposed by~~
17 ~~Subsection (a)(2) does not apply to an actor who uses force against~~
18 ~~a person who is at the time of the use of force committing an offense~~
19 ~~of unlawful entry in the habitation of the actor].~~

20 (c) A person who has a right to be present at the location
21 where the deadly force is used, who has not provoked the person
22 against whom the deadly force is used, and who is not engaged in
23 criminal activity at the time the deadly force is used is not
24 required to retreat before using deadly force as described by this
25 section.

26 (d) For purposes of Subsection (a)(2), in determining
27 whether an actor described by Subsection (c) reasonably believed

1 that the use of deadly force was necessary, a finder of fact may not
2 consider whether the actor failed to retreat.

3 SECTION 4. Section 83.001, Civil Practice and Remedies
4 Code, is amended to read as follows:

5 Sec. 83.001. CIVIL IMMUNITY [~~AFFIRMATIVE DEFENSE~~]. A [~~It~~
6 ~~is an affirmative defense to a civil action for damages for personal~~
7 ~~injury or death that the~~] defendant who uses force or [~~, at the time~~
8 ~~the cause of action arose, was justified in using~~] deadly force that
9 is justified under Chapter 9 [~~Section 9.32~~], Penal Code, is immune
10 from civil liability for personal injury or death that results from
11 the defendant's [~~against a person who at the time of the~~] use of
12 force or deadly force, as applicable [~~was committing an offense of~~
13 ~~unlawful entry in the habitation of the defendant~~].

14 SECTION 5. (a) Sections 9.31 and 9.32, Penal Code, as
15 amended by this Act, apply only to an offense committed on or after
16 the effective date of this Act. An offense committed before the
17 effective date of this Act is covered by the law in effect when the
18 offense was committed, and the former law is continued in effect for
19 this purpose. For the purposes of this subsection, an offense is
20 committed before the effective date of this Act if any element of
21 the offense occurs before the effective date.

22 (b) Section 83.001, Civil Practice and Remedies Code, as
23 amended by this Act, applies only to a cause of action that accrues
24 on or after the effective date of this Act. An action that accrued
25 before the effective date of this Act is governed by the law in
26 effect at the time the action accrued, and that law is continued in
27 effect for that purpose.

1 SECTION 6. This Act takes effect September 1, 2007.