

By: Burnam

H.B. No. 60

A BILL TO BE ENTITLED

AN ACT

relating to the use of force in defense of property.

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

SECTION 1. Section 9.41, Penal Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A person unlawfully dispossessed of land or tangible, movable property by another is justified in using force against the other when and to the degree the actor reasonably believes the force is immediately necessary to reenter the land or recover the property if:

(1) the actor uses the force immediately or in fresh pursuit after the dispossession and:

(A) ~~[(1)]~~ the actor reasonably believes the other had no claim of right when he dispossessed the actor; or

(B) ~~[(2)]~~ the other accomplished the dispossession by using force, threat, or fraud against the actor; and

(2) the dispossession was not an element of a criminal offense the actor committed or attempted to commit.

(c) For purposes of Subsection (b)(2), a dispossession is presumed not to have been an element of any commission or attempted commission of a criminal offense by the actor. This presumption may be refuted only if the state proves by a preponderance of the evidence that the actor committed or attempted to commit a criminal

1 offense and that the dispossession was an element of that offense.

2           SECTION 2. The change in law made by this Act applies only  
3 to an offense committed on or after the effective date of this Act.  
4 An offense committed before the effective date of this Act is  
5 governed by the law in effect on the date the offense was committed,  
6 and the former law is continued in effect for that purpose. For  
7 purposes of this section, an offense was committed before the  
8 effective date of this Act if any element of the offense occurred  
9 before that date.

10           SECTION 3. This Act takes effect on the 91st day after the  
11 last day of the legislative session.