

By: Anchia

H.B. No. 987

A BILL TO BE ENTITLED

AN ACT

relating to 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 9.31(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:~~

~~[(A) 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;~~

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

~~[(C) was committing or attempting to commit aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery;~~

~~[(2) did not provoke the person against whom the force~~

1 ~~was used; and~~

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

5 SECTION 2. Sections 9.32(a) and (b), Penal Code, are  
6 amended to read as follows:

7 (a) A person is justified in using deadly force against  
8 another:

9 (1) if the actor would be justified in using force  
10 against the other under Section 9.31; ~~and~~

11 (2) if a reasonable person in the actor's situation  
12 would not have retreated; and

13 (3) when and to the degree the actor reasonably  
14 believes the deadly force is immediately necessary:

15 (A) to protect the actor against the other's use  
16 or attempted use of unlawful deadly force; or

17 (B) to prevent the other's imminent commission of  
18 aggravated kidnapping, murder, sexual assault, aggravated sexual  
19 assault, robbery, or aggravated robbery.

20 (b) The requirement imposed by ~~[actor's belief under]~~  
21 Subsection (a)(2) does not apply to an actor who uses deadly force  
22 against a person who at the time of the use of deadly force is  
23 committing an offense involving the unlawful entry into the  
24 habitation of the actor ~~[that the deadly force was immediately~~  
25 ~~necessary as described by that subdivision is presumed to be~~  
26 ~~reasonable if the actor:~~

27 ~~[(1) knew or had reason to believe that the person~~

1 ~~against whom the deadly force was used:~~

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

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

8 ~~[(C) was committing or attempting to commit an~~  
9 ~~offense described by Subsection (a)(2)(B);~~

10 ~~[(2) did not provoke the person against whom the force~~  
11 ~~was used; and~~

12 ~~[(3) was not otherwise engaged in criminal activity,~~  
13 ~~other than a Class C misdemeanor that is a violation of a law or~~  
14 ~~ordinance regulating traffic at the time the force was used].~~

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

17 Sec. 83.001. AFFIRMATIVE DEFENSE [CIVIL IMMUNITY]. It is  
18 an affirmative defense to a civil action for damages for personal  
19 injury or death that the [A] defendant, at the time the cause of  
20 action arose, was justified in using [who uses force or] deadly  
21 force under Section 9.32, Penal Code, against a person who at the  
22 time of the [that is justified under Chapter 9, Penal Code, is  
23 immune from civil liability for personal injury or death that  
24 results from the defendant's] use of [force or] deadly force was  
25 committing an offense involving the unlawful entry into the  
26 habitation of the defendant [ , as applicable].

27 SECTION 4. Sections 9.01(5), 9.31(e) and (f), and 9.32(c)

1 and (d), Penal Code, are repealed.

2           SECTION 5. 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 6. Section [83.001](#), Civil Practice and Remedies  
11 Code, as amended by this Act, applies only to a cause of action that  
12 accrues on or after the effective date of this Act. A cause of  
13 action that accrues before the effective date of this Act is  
14 governed by the law applicable to the cause of action immediately  
15 before the effective date of this Act, and that law is continued in  
16 effect for that purpose.

17           SECTION 7. This Act takes effect September 1, 2017.