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:

(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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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