

2019 Regular Session

HOUSE BILL NO. 235

BY REPRESENTATIVE AMEDEE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME: Provides relative to justifiable use of force or violence in defense at a place of worship

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AN ACT

To amend and reenact R.S. 14:19(A)(1)(b)(i) and (B)(introductory paragraph) and (1) and 20(A)(3) and (4)(a) and (B)(introductory paragraph) and (1) and to enact R.S. 14:19(E) and 20(E), relative to defenses to prosecution; to provide relative to the use of force or violence in defense; to provide relative to justifiable homicide; to expand application of the defenses to persons lawfully in a place of worship; to provide for definitions; to provide for limitations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:19(A)(1)(b)(i) and (B)(introductory paragraph) and (1) and 20(A)(3) and (4)(a) and (B)(introductory paragraph) and (1) are hereby amended and reenacted and R.S. 14:19(E) and 20(E) are hereby enacted to read as follows:

§19. Use of force or violence in defense

A.(1) The use of force or violence upon the person of another is justifiable under either of the following circumstances:

* * *

(b)(i) When committed by a person lawfully inside a dwelling, a place of business, a place of worship, or a motor vehicle as defined in R.S. 32:1(40) when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, place of worship, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, place of worship, or motor

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 vehicle, and the person using the force or violence reasonably believes that the use
2 of force or violence is necessary to prevent the entry or to compel the intruder to
3 leave the dwelling, place of business, place of worship, or motor vehicle.

4 * * *

5 B. For the purposes of this Section, there shall be a presumption that a
6 person lawfully inside a dwelling, place of business, place of worship, or motor
7 vehicle held a reasonable belief that the use of force or violence was necessary to
8 prevent unlawful entry thereto, or to compel an unlawful intruder to leave the
9 premises or motor vehicle, if both of the following occur:

10 (1) The person against whom the force or violence was used was in the
11 process of unlawfully and forcibly entering or had unlawfully and forcibly entered
12 the dwelling, place of business, place of worship, or motor vehicle.

13 * * *

14 E.(1) For purposes of this Section, "place of worship" includes any church,
15 synagogue, mosque, or other building, structure, or place used for religious worship
16 or other religious purpose.

17 (2) If the force or violence used by the person claiming the defense set forth
18 in this Section involves the use of a firearm, the provisions of this Section shall apply
19 to the person only if, at the time of the use of force or violence, the person was not
20 prohibited from possessing a firearm under state or federal law.

21 §20. Justifiable homicide

22 A. A homicide is justifiable:

23 * * *

24 (3) When committed against a person whom one reasonably believes to be
25 likely to use any unlawful force against a person present in a dwelling, ~~or~~ a place of
26 business, or a place of worship, or when committed against a person whom one
27 reasonably believes is attempting to use any unlawful force against a person present
28 in a motor vehicle as defined in R.S. 32:1(40), while committing or attempting to

1 commit a burglary or robbery of such dwelling, business, place of worship, or motor
2 vehicle.

3 (4)(a) When committed by a person lawfully inside a dwelling, a place of
4 business, place of worship, or a motor vehicle as defined in R.S. 32:1(40) when the
5 conflict began, against a person who is attempting to make an unlawful entry into the
6 dwelling, place of business, place of worship, or motor vehicle, or who has made an
7 unlawful entry into the dwelling, place of business, place of worship, or motor
8 vehicle, and the person committing the homicide reasonably believes that the use of
9 deadly force is necessary to prevent the entry or to compel the intruder to leave the
10 dwelling, place of business, place of worship, or motor vehicle.

11 * * *

12 B. For the purposes of this Section, there shall be a presumption that a
13 person lawfully inside a dwelling, place of business, place of worship, or motor
14 vehicle held a reasonable belief that the use of deadly force was necessary to prevent
15 unlawful entry thereto, or to compel an unlawful intruder to leave the dwelling, place
16 of business, place of worship, or motor vehicle when the conflict began, if both of
17 the following occur:

18 (1) The person against whom deadly force was used was in the process of
19 unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling,
20 place of business, place of worship, or motor vehicle.

21 * * *

22 E.(1) For purposes of this Section, "place of worship" includes any church,
23 synagogue, mosque, or other building, structure, or place used for religious worship
24 or other religious purpose.

25 (2) If the homicide is committed by use of a firearm, the provisions of this
26 Section shall apply to the person only if, at the time of the homicide, the person was
27 not prohibited from possessing a firearm under state or federal law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 235 Engrossed

2019 Regular Session

Amedee

Abstract: Provides relative to the use of force or violence against the person of another, or the commission of a homicide, in self-defense by persons lawfully inside a place of worship.

Present law (R.S. 14:19, use of force or violence in defense) provides that the use of force or violence upon the person of another that does not result in the person's death is justifiable under the following circumstances:

- (1) When committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense.
- (2) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person using the force or violence reasonably believes that the use of force or violence is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

Present law (R.S. 14:20, justifiable homicide) provides that a homicide is justified under the following circumstances:

- (1) When committed in self-defense by one who reasonably believes that he is in imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger.
- (2) When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about to be committed and that such action is necessary for its prevention.
- (3) When committed against a person whom one reasonably believes to be likely to use any unlawful force against a person present in a dwelling or a place of business, or when committed against a person whom one reasonably believes is attempting to use any unlawful force against a person present in a motor vehicle, while committing or attempting to commit a burglary or robbery of such dwelling, business, or motor vehicle.
- (4) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person committing the homicide reasonably believes that the use of deadly force is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

Present law (R.S. 14:19 and 20) provides a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of force

was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the dwelling, place of business, or motor vehicle when the conflict began, if both of the following occur:

- (1) The person against whom deadly force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.
- (2) The person who used deadly force knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

Proposed law retains present law, but expands its application to persons lawfully inside places of worship. For these purposes, proposed law defines "place of worship" as any church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose.

Proposed law further provides that if the force or violence used by the person claiming the defense involves the use of a firearm, or if the homicide is committed by use of a firearm, the provisions of proposed law shall apply to the person only if the person was not prohibited from possessing a firearm under state or federal law.

(Amends R.S. 14:19(A)(1)(b)(i) and (B)(intro. para.) and (1) and 20(A)(3) and (4)(a) and (B)(intro. para.) and (1); Adds R.S. 14:19(E) and 20(E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove the requirement that the person may only claim a defense that involves the use of a firearm if the person lawfully possessed the firearm under state or federal law.
2. Add a requirement that the person may only claim a defense that involves the use of a firearm if the person was not prohibited from possessing a firearm under state or federal law.