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HOUSE BILL NO. 854

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-91.1, relating to self defense and defense of others.*

Patrons—Morefield, Anderson, Bell, Richard P., Carrico, Cline, Crockett-Stark, Edmunds, Gear, Greason, Jones, Kilgore, Landes, Lingamfelter, Merricks, Nixon, Pollard and Wright; Senator: Puckett

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-91.1 as follows:**

§ 18.2-91.1. Use of physical force, including deadly force, against an intruder; justified self-defense.

A. A lawful occupant of a residence is justified in using reasonable and proportionate force, including deadly force, against an intruder or attacker to prevent a forcible entry into the residence or to terminate the intruder's or attacker's unlawful entry if the occupant reasonably apprehends that the intruder or attacker may kill or inflict serious bodily harm upon the occupant or others in the residence or if the occupant reasonably believes that the intruder or attacker intends to commit a felony in the residence and the occupant reasonably believes deadly force is necessary.

B. A lawful occupant within a residence does not have a duty to retreat from an intruder or attacker in the circumstances described in subsection A.

C. A person not engaged in unlawful activity who is attacked in any place he has a legal right to be outside of his residence may use reasonable and proportionate force, including deadly force, against an intruder or attacker, without a duty to retreat, if the person reasonably believes that he or another is in imminent danger of death or serious bodily harm from which he or another can only be saved by the use of such force against the intruder or attacker.

D. The justified use of reasonable and proportionate force under this section shall constitute a full and complete defense to any civil action brought by an intruder or attacker against a person using such force. The defense to a civil action, however, is not available to a person who:

1. Is attempting to commit, committing, or escaping from the commission of a felony;

2. Initially provokes the use of force against himself or another with the intent to use such provoked force as an excuse to inflict bodily harm upon the assailant; or

3. Otherwise initially provokes the use of force against himself or another, unless he withdraws from physical contact with the assailant and indicates clearly to the assailant that he desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

E. The provisions of this section do not apply to the creation of a hazardous or dangerous condition on or in any real or personal property designed to prevent criminal conduct or cause injury to a person engaging in criminal conduct.

F. Nothing in this section shall authorize or justify a person to resist or obstruct a law-enforcement officer acting in the course of his duty.

INTRODUCED

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