

2024 Regular Session

HOUSE BILL NO. 805

BY REPRESENTATIVE BRYANT

CRIME: Provides a justification defense to domestic violence victim-defendants

1 AN ACT

2 To enact R.S. 14:20.2, relative to use of force or violence or homicide; to provide for
3 definitions; to provide for the justified use of force or homicide by a battered person;
4 to provide for a burden of proof; to provide relative to criminal responsibility; to
5 provide relative to notice; to provide for consideration by the finder of fact; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:20.2 is hereby enacted to read as follows:

9 §20.2. Use of force or violence in defense

10 A. For the purposes of this Section:

11 (1) "Battered person" shall mean an individual who has experienced a pattern
12 of domestic abuse or dating violence from a dating partner, family member, or
13 household member.

14 (2) "Dating partner", "domestic abuse", "family member", and "household
15 member" shall have the same definition as in R.S. 46:2132.

16 (3) "Dating violence" shall have the same definition as in R.S. 46:2151.

17 (4) "Pattern of abuse" shall mean two or more incidents of domestic abuse
18 or dating violence between dating partners, family members, or household members,
19 regardless of the amount of time that has elapsed between the incidents.

1 B.(1) Use of force or violence or commitment of a homicide by a battered
2 person is justified if all of the following circumstances are present:

3 (a) When committed in a manner that is not legally justified pursuant to R.S.
4 14:19 or 20.

5 (b) When committed against a dating partner, family member, or household
6 member who demonstrated a pattern of abuse against the battered person or another
7 family member or household member of the battered person.

8 (c) When there is reasonable belief that the use of force or violence or
9 commitment of a homicide by the battered person was necessary to end the pattern
10 of abuse.

11 (2) A reasonable belief as provided in Subparagraph (c) of Paragraph (1) of
12 Subsection B of this Section shall be assessed from the viewpoint of a reasonable
13 person in the battered person's circumstances, as perceived by the battered person.

14 C.(1) A battered person who asserts a defense pursuant to this Section has
15 the burden of proving, by clear and convincing evidence, that the use of force or
16 violence or commitment of a homicide meets all of the requirements provided in
17 Subsection B of this Section.

18 (2) If it is proven that the use of force or violence or commitment of a
19 homicide meets all of the requirements provided in Subsection B of this Section, the
20 criminal responsibility of the battered person shall be either of the following:

21 (a) Complete exemption from criminal responsibility.

22 (b) Partial exemption from criminal responsibility, in which the battered
23 person shall receive a punishment that reflects lesser grade of the offense charged.

24 D. A battered person intending to assert a justification defense pursuant to
25 this Section shall give notice of the battered person's intent to assert the defense to
26 the district attorney at least thirty days before the trial.

27 E. No finder of fact shall be permitted to consider the possibility of retreat
28 as a factor in determining whether or not the battered person who used force or
29 violence or committed a homicide had a reasonable belief that force or violence or

1 the commitment of a homicide was reasonable and apparently necessary to prevent
 2 a forcible offense against the battered person, a family member, or a household
 3 member.

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 805 Original

2024 Regular Session

Bryant

Abstract: Provides relative to the justified use of force or commitment of a homicide by a battered person.

Proposed law defines the terms "battered person", "dating partner", "domestic abuse", "family member", "household member", "dating violence", and "pattern of abuse".

Proposed law provides that the use of force or violence or commitment of a homicide by a battered person is justified if all of the following circumstances are present:

- (1) When committed in a manner that is not legally justified pursuant to present law (R.S. 14:19 or 20).
- (2) When committed against a dating partner, family member, or household member who demonstrated a pattern of abuse against the battered person or another family member or household member of the battered person.
- (3) When there is reasonable belief that the use of force or violence or commitment of a homicide by the battered person was necessary to end the pattern of abuse.

Proposed law provides that a reasonable belief as provided in proposed law shall be assessed from the viewpoint of a reasonable person in the battered person's circumstances, as perceived by the battered person.

Proposed law provides that a battered person who asserts a defense pursuant to proposed law has the burden of proving, by clear and convincing evidence, that the use of force or violence or commitment of a homicide meets all of the requirements provided in proposed law.

Proposed law provides that if it is proven that the use of force or violence or commitment of a homicide meets all of the requirements provided in proposed law, the criminal responsibility of the battered person shall be either of the following:

- (1) Complete exemption from criminal responsibility.
- (2) Partial exemption from criminal responsibility, in which the battered person shall receive a punishment that reflects a lesser grade of the offense charged.

Proposed law provides that a battered person intending to assert a justification defense pursuant to proposed law shall give notice of the battered person's intent to assert the defense to the district attorney at least 30 days before the trial.

Proposed law provides that no finder of fact shall be permitted to consider the possibility of retreat as a factor in determining whether or not the battered person who used force or violence or committed a homicide had a reasonable belief that force or violence or the

commitment of a homicide was reasonable and apparently necessary to prevent a forcible offense against the battered person, a family member, or a household member.

(Adds R.S. 14:20.2)