

2024 Regular Session

HOUSE BILL NO. 819

BY REPRESENTATIVE VENTRELLA

EVIDENCE: Provides relative to the burden of proof when the justification of self-defense is raised

1 AN ACT

2 To enact Code of Evidence Article 1105 and Code of Criminal Procedure Article 389,
3 relative to the burden of proof in certain proceedings; to provide for the burden of
4 proof when a claim of self-defense is raised in criminal or civil proceedings; to
5 provide relative to notice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Evidence Article 1105 is hereby enacted to read as follows:

8 Art. 1105. Burden of proof; criminal proceedings; civil proceedings

9 A. In any civil proceeding in which the defense of self-defense is raised, the
10 defendant shall have the burden to prove by a preponderance of the evidence that he
11 acted in self-defense.

12 B. For the purposes of this Article, if the defense of self-defense is raised in
13 a civil proceeding by an authorized person as defined in R.S. 9:2793.12, the burden
14 of proof shall be on the party asserting the action to prove by a preponderance of the
15 evidence that the injury, death, or loss complained of was not caused by a justified
16 use of force or self-defense by the authorized person.

17 Section 2. Code of Criminal Procedure Article 389 is hereby enacted to read as
18 follows:

- 1 Art. 389. Burden of proof; justification of self-defense raised; probable cause
- 2 A. In any criminal proceeding in which the justification of self-defense is
- 3 raised pursuant to R.S. 14:19 or 20, the state shall have the burden to prove beyond
- 4 a reasonable doubt that the defendant did not act in self-defense.
- 5 B. Any person who asserts the defense of self-defense shall provide
- 6 reasonable notice to the prosecution in advance of trial asserting such defense.
- 7 C. A peace officer shall consider evidence of self-defense in accordance with
- 8 R.S. 14:19 or 20 when determining if probable cause exists to conduct an arrest.
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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 819 Reengrossed

2024 Regular Session

Ventrella

Abstract: Provides for the burden of proof when a claim of self-defense is raised in criminal or civil proceedings.

Proposed law (C.E. Art. 1105) provides that in any civil proceeding in which the defense of self-defense is raised, the defendant shall have the burden to prove by a preponderance of the evidence that he acted in self-defense.

Proposed law provides that if the defense of self-defense is raised in a civil proceeding by an authorized person as defined in present law (R.S. 9:2793.12), the burden of proof shall be on the party asserting the action to prove by a preponderance of the evidence that the injury, death, or loss complained of was not caused by a justified use of force or self-defense by the authorized person.

Proposed law (C.Cr.P. Art. 389) provides that in any criminal proceeding in which the justification of self-defense is raised pursuant to present law (R.S. 14:19 or 20), the state shall have the burden to prove beyond a reasonable doubt that the defendant did not act in self-defense.

Proposed law provides that any person who asserts the defense of self-defense shall provide reasonable notice to the prosecution in advance of trial asserting such defense.

Proposed law provides that a peace officer shall consider evidence of self-defense in accordance with present law (R.S. 14:19 or 20) when determining if probable cause exists to conduct an arrest.

(Adds C.E. Art. 1105 and C.Cr.P. Art. 389)

Summary of Amendments Adopted by House

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

1. Make technical changes.

2. Provide that any person who asserts the defense of self-defense shall provide reasonable notice to the prosecution in advance of trial asserting such defense.
3. Clarify the burden of proof if the defense of self-defense is raised in a civil proceeding by an authorized person as defined in present law (R.S. 9:2793.12).

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Move provisions of proposed law, relative to the burden of proof in criminal cases, from the Code of Evidence to the Code of Criminal Procedure.
3. Provide that a peace officer shall consider evidence of self-defense in accordance with present law (R.S. 14:19 or 20) when determining if probable cause exists to conduct an arrest.