

1 HB465  
2 197283-3  
3 By Representatives Johnson and Hurst (Constitutional  
4 Amendment)  
5 RFD: Local Legislation  
6 First Read: 18-APR-19

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
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8 To propose an amendment to the Constitution of  
9 Alabama of 1901, relating to Talladega County, to further  
10 provide for the justification for a person to use deadly  
11 physical force in self-defense or in the defense of another  
12 person on the premises of a church under certain conditions.  
13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. The following amendment to the  
15 Constitution of Alabama of 1901, is proposed and shall become  
16 valid as a part of the Constitution when all requirements of  
17 this act are fulfilled:

18 PROPOSED AMENDMENT

19 (a) This amendment shall apply only in Talladega  
20 County.

21 (b) The following definitions are applicable to this  
22 amendment:

23 (1) CHURCH. A bona fide duly constituted religious  
24 society or ecclesiastical body of any sect, order, or  
25 denomination, or any congregation thereof.

1           (2) DEADLY PHYSICAL FORCE. Force which, under the  
2 circumstances in which it is used, is readily capable of  
3 causing death or serious physical injury.

4           (3) FORCE. Physical action or threat against  
5 another, including confinement.

6           (4) PREMISES. The term includes any building, as  
7 defined in this section, and any real property.

8           (c) A person may use deadly physical force, and is  
9 legally presumed to be justified in using deadly physical  
10 force in self-defense or the defense of another person, if the  
11 person reasonably believes that another person is using or  
12 about to use physical force against an employee, volunteer,  
13 member of a church, or any other person authorized to be on  
14 the premises of the church when the church is open or closed  
15 to the public while committing or attempting to commit a crime  
16 involving death, serious physical injury, robbery in the first  
17 degree, or kidnapping in the first degree.

18           (d) A person who is justified under subsection (c)  
19 in using deadly physical force, who is not engaged in an  
20 unlawful activity, and is in any place where he or she has the  
21 right to be, has no duty to retreat and has the right to stand  
22 his or her ground.

23           (e) A person who uses force, including deadly  
24 physical force, as justified and permitted in this amendment  
25 is immune from criminal prosecution and civil action for the  
26 use of such force, unless the force was determined to be

1 unlawful or in violation of Section 13A-3-21, Code of Alabama  
2 1975.

3 (f) (1) Prior to the commencement of a trial in a  
4 case in which a defense is claimed under this amendment, the  
5 court having jurisdiction over the case, upon motion of the  
6 defendant, shall conduct a pretrial hearing to determine  
7 whether deadly force, used by the defendant was justified or  
8 whether it was unlawful under this amendment. During any  
9 pretrial hearing to determine immunity, the defendant must  
10 show by a preponderance of the evidence that he or she is  
11 immune from criminal prosecution.

12 (2) If, after a pretrial hearing under subdivision  
13 (1), the court concludes that the defendant has proved by a  
14 preponderance of the evidence that force, including deadly  
15 force, was justified, the court shall enter an order finding  
16 the defendant immune from criminal prosecution and dismissing  
17 the criminal charges.

18 (3) If the defendant does not meet his or her burden  
19 of proving immunity at the pretrial hearing, he or she may  
20 continue to pursue the defense of self-defense or defense of  
21 another person at trial. Once the issue of self-defense or  
22 defense of another person has been raised by the defendant,  
23 the state continues to bear the burden of proving beyond a  
24 reasonable doubt all of the elements of the charged conduct.

25 (f) A law enforcement agency may use standard  
26 procedures for investigating the use of force described in  
27 subsection (c), but the agency may not arrest the person for

1 using force unless it determines that there is probable cause  
2 that the force used was unlawful.

3 Section 2. An election upon the proposed amendment  
4 shall be held in accordance with Section 284.01 of the  
5 Constitution of Alabama of 1901, now appearing as Section  
6 284.01 of the Official ReCompilation of the Constitution of  
7 Alabama of 1901, as amended, and the election laws of this  
8 state.

9 Section 3. The appropriate election official shall  
10 assign a ballot number for the proposed constitutional  
11 amendment on the election ballot and shall set forth the  
12 following description of the substance or subject matter of  
13 the proposed constitutional amendment:

14 "Relating to Talladega County, proposing an  
15 amendment to the Constitution of Alabama of 1901, to provide  
16 that a person is not liable for using deadly physical force in  
17 self-defense or in the defense of another person on the  
18 premises of a church under certain conditions."

19 "Proposed by Act \_\_\_\_\_."

20 This description shall be followed by the following  
21 language:

22 "Yes ( ) No ( )."

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Local Legisla-  
tion..... 18-APR-19

Read for the second time and placed  
on the calendar 1 amendment ..... 08-MAY-19

Read for the third time and passed  
as amended..... 09-MAY-19

Yeas 65, Nays 0, Abstains 31

Jeff Woodard  
Clerk