

Senate Bill 160

By: Senators Johnson of the 1st, Bowen of the 13th, Dean of the 31st, Gillis of the 20th and Hooks of the 14th

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as defenses to criminal prosecution, so as to change the provisions relating to the use of force in the defense of habitations or residences; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as defenses to criminal prosecution, is amended by striking subsection (a) of Code Section 16-3-21, relating to the use of force in the defense of self or others, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other's imminent use of unlawful force; however, except as provided in Code Section 16-3-23, a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony."

SECTION 2.

Said article is further amended by striking in its entirety Code Section 16-3-23, relating to use of force in defense of habitation, and inserting in lieu thereof a new Code Section 16-3-23 to read as follows:

"16-3-23.

A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to prevent or terminate such other's unlawful entry into or attack upon a habitation; however, ~~he~~ such

1 person is justified in the use of force which is intended or likely to cause death or great
2 bodily harm only if:

3 (1) The entry is made or attempted in a violent and tumultuous manner and he or she
4 reasonably believes that the entry is attempted or made for the purpose of assaulting or
5 offering personal violence to any person dwelling or being therein and that such force is
6 necessary to prevent the assault or offer of personal violence; ~~or~~

7 (2) That force is used against another person who is not a member of the family or
8 household and who unlawfully and forcibly enters or has unlawfully and forcibly entered
9 the residence and the person using such force knew or had reason to believe that an
10 unlawful and forcible entry occurred; or

11 (3) The person using such force He reasonably believes that the entry is made or
12 attempted for the purpose of committing a felony therein and that such force is necessary
13 to prevent the commission of the felony."

14 SECTION 3.

15 All laws and parts of laws in conflict with this Act are repealed.