

# HOUSE BILL No. 5558

February 14, 2018, Introduced by Reps. Noble, Barrett, Marino, Johnson, Reilly, Glenn and Bizon and referred to the Committee on Judiciary.

A bill to amend 2006 PA 309, entitled  
"Self-defense act,"  
(MCL 780.971 to 780.974) by adding section 2a; and to repeal acts  
and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 2A. (1) AN INDIVIDUAL WHO USES DEADLY FORCE OR FORCE  
2        OTHER THAN DEADLY FORCE IN COMPLIANCE WITH SECTION 2 IS JUSTIFIED  
3        IN SUCH CONDUCT AND IS IMMUNE FROM CRIMINAL PROSECUTION AND CIVIL  
4        LIABILITY FOR THE USE OR THREATENED USE OF SUCH FORCE BY THE  
5        INDIVIDUAL, PERSONAL REPRESENTATIVE, OR HEIRS OF THE INDIVIDUAL  
6        AGAINST WHOM THE FORCE WAS USED OR THREATENED, UNLESS THE  
7        INDIVIDUAL AGAINST WHOM FORCE WAS USED OR THREATENED IS A LAW  
8        ENFORCEMENT OFFICER WHO WAS ACTING IN THE PERFORMANCE OF HIS OR HER  
9        OFFICIAL DUTIES AND THE LAW ENFORCEMENT OFFICER IDENTIFIED HIMSELF  
10       OR HERSELF IN ACCORDANCE WITH ANY APPLICABLE LAW OR THE INDIVIDUAL

1 USING OR THREATENING TO USE FORCE KNEW OR REASONABLY SHOULD HAVE  
2 KNOWN THAT THE INDIVIDUAL WAS A LAW ENFORCEMENT OFFICER. AS USED IN  
3 THIS SUBSECTION, THE TERM "CRIMINAL PROSECUTION" INCLUDES  
4 ARRESTING, DETAINING IN CUSTODY, AND CHARGING OR PROSECUTING A  
5 PERSON.

6 (2) IF A PROSECUTOR BELIEVES THAT AN INDIVIDUAL USED DEADLY  
7 FORCE OR FORCE OTHER THAN DEADLY FORCE THAT WAS NOT JUSTIFIED UNDER  
8 SECTION 2, THE PROSECUTOR MAY CHARGE THE INDIVIDUAL WITH A CRIME  
9 ARISING FROM THAT USE OF DEADLY FORCE OR FORCE OTHER THAN DEADLY  
10 FORCE AND SHALL PRESENT EVIDENCE TO THE JUDGE OR MAGISTRATE AT THE  
11 TIME OF WARRANT ISSUANCE, AT THE TIME OF ANY PRELIMINARY  
12 EXAMINATION, AND AT THE TIME OF ANY TRIAL ESTABLISHING THAT THE  
13 INDIVIDUAL'S ACTIONS WERE NOT JUSTIFIED UNDER SECTION 2. HOWEVER,  
14 ONCE A PRIMA FACIE CLAIM OF SELF-DEFENSE IMMUNITY FROM CRIMINAL  
15 PROSECUTION UNDER THIS SECTION HAS BEEN RAISED BY A DEFENDANT, THE  
16 BURDEN OF PROOF BY CLEAR AND CONVINCING EVIDENCE IS ON THE PARTY  
17 SEEKING TO OVERCOME THE IMMUNITY FROM CRIMINAL PROSECUTION PROVIDED  
18 IN SUBSECTION (1).

19 (3) AS USED IN THIS SECTION, "LAW ENFORCEMENT OFFICER" MEANS  
20 THAT TERM AS DEFINED IN SECTION 2 OF THE MICHIGAN COMMISSION ON LAW  
21 ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL 28.602.

22 Enacting section 1. The following acts and parts of acts are  
23 repealed:

24 (a) 2006 PA 310, MCL 780.961.

25 (b) 2006 PA 311, MCL 780.951.

26 Enacting section 2. This amendatory act takes effect 90 days  
27 after the date it is enacted into law.

1           Enacting section 3. This amendatory act does not take effect  
2 unless Senate Bill No.\_\_\_\_ or House Bill No. 5559 (request no.  
3 04312'17 a) of the 99th Legislature is enacted into law.