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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1093 Session of  
2013

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INTRODUCED BY FARNESE, KITCHEN AND HUGHES, SEPTEMBER 16, 2013

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REFERRED TO JUDICIARY, SEPTEMBER 16, 2013

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in general principles of  
3 justification, further providing for justification generally  
4 and for use of force in self-protection.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 503 of Title 18 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a subsection to read:  
9 Section 503. Justification generally.

10 \* \* \*

11 (c) Affirmative defense.--

12 (1) Except when force is used pursuant to section 505(b)

13 (2)(ii), (relating to use of force in self-protection), the

14 use of deadly force as justification for conduct resulting in

15 the death of or serious bodily injury to another shall only

16 be a defense to the conduct charged when the actor proves by

17 a preponderance of evidence that the actor was justified in

18 the use of such deadly force at the time of the commission of

19 the offense.

1           (2) The justification afforded by this subsection is  
2 unavailable in a prosecution for an offense if the actor  
3 claiming the justification acted in direct contravention or  
4 recklessly disregarded the instruction or direction of any  
5 peace officer or public safety official.

6           Section 2. Section 505(b) (2), (2.1), and (2.3) of Title 18  
7 are amended to read:

8 § 505. Use of force in self-protection.

9           \* \* \*

10          (b) Limitations on justifying necessity for use of force.--

11           \* \* \*

12           (2) The use of deadly force is not justifiable under  
13 this section unless the actor believes that such force is  
14 necessary to protect himself against death, serious bodily  
15 injury, kidnapping or sexual intercourse compelled by force  
16 or threat; nor is it justifiable if:

17           (i) the actor, with the intent of causing death or  
18 serious bodily injury, provoked the use of force against  
19 himself in the same encounter; or

20           (ii) the actor knows that he can avoid the necessity  
21 of using such force with complete safety by retreating,  
22 except the actor is not obliged to retreat from his  
23 dwelling, occupied vehicle or place of work, unless he  
24 was the initial aggressor or is assailed in his place of  
25 work by another person whose place of work the actor  
26 knows to be.

27           (2.1) Except as otherwise provided in paragraph (2.2),  
28 an actor [is presumed to have] may prove that he has a  
29 reasonable belief that deadly force is immediately necessary  
30 to protect himself against death, serious bodily injury,

1 kidnapping or sexual intercourse compelled by force or threat  
2 if both of the following conditions exist:

3 (i) The person against whom the force is used is in  
4 the process of unlawfully and forcefully entering, or has  
5 unlawfully and forcefully entered and is present within,  
6 a dwelling, residence or occupied vehicle; or the person  
7 against whom the force is used is or is attempting to  
8 unlawfully and forcefully remove another against that  
9 other's will from the dwelling, residence or occupied  
10 vehicle.

11 (ii) The actor knows or has reason to believe that  
12 the unlawful and forceful entry or act is occurring or  
13 has occurred.

14 \* \* \*

15 (2.3) An actor who is not engaged in a criminal  
16 activity, who is not in illegal possession of a firearm as  
17 defined in 42 Pa.C.S. § 9712 (relating to sentences for  
18 offenses committed with firearms) and who is attacked in any  
19 place where the actor would have a duty to retreat under  
20 paragraph (2) (ii) has no duty to retreat and has the right to  
21 stand his ground and use force, including deadly force, if:

22 (i) the actor [has a right to be] is not trespassing  
23 in the place where he was attacked;

24 (ii) [the actor believes it is immediately necessary  
25 to do so to protect himself against death, serious bodily  
26 injury, kidnapping or sexual intercourse by force or  
27 threat] the action is immediately necessary to protect  
28 against death, serious bodily injury, kidnapping or  
29 sexual intercourse by force or threat; and

30 (iii) the person against whom the force is used

1 displays or otherwise uses:

2 (A) a firearm or replica of a firearm as defined  
3 in 42 Pa.C.S. § 9712 [(relating to sentences for  
4 offenses committed with firearms)]; or

5 (B) any other device designed as a weapon  
6 readily or apparently capable of lethal use.

7 \* \* \*

8 Section 3. This act shall take effect in 60 days.