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H.B. 233
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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Williams and Hillyer

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SUMMARY

- Allows a person to file a pretrial motion asserting that the person acted in self-defense and requesting that the court establish a rebuttable presumption that the person acted in self-defense.
- Requires the court to hold a pretrial hearing if a person files a pretrial motion asserting the person acted in self-defense.
- Require that, if the person presents evidence that tends to support by a preponderance of the evidence that the person in acted self-defense, the court must grant the pretrial motion.
- Requires that, if the court grants the pretrial motion, at the trial of the person there is a rebuttable presumption that the accused person acted in self-defense.
- Allows the prosecution to rebut this presumption by proving beyond a reasonable doubt that the person did not use the force in self-defense.
- Provides that, if the person did not file a pretrial motion or if the pretrial motion was denied, the person is not precluded for asserting self-defense at the person's trial.
- Provides that, if a person described in the above dot point asserts self-defense at trial, the person must present evidence that tends to support by a preponderance of the evidence that the person used force in self-defense.
- Names the act the Self-Defense Protection Act.

DETAILED ANALYSIS

Self-defense

A person is allowed to act in self-defense, defense of another, or defense of that person's residence.¹

Pretrial procedure

The bill allows a person who is accused of an offense that involved the person's use of self-defense, defense of another, or defense of that person's residence to file a pretrial motion asserting that the accused person acted in self-defense, defense of another, or defense of that person's residence and requesting that the court establish a rebuttable presumption that the accused person acted in self-defense, defense of another, or defense of that person's residence.²

If an accused person files a pretrial motion, the bill requires the court to hold a pretrial hearing. If, at the pretrial hearing of the person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support by a preponderance of the evidence that the accused person used the force in self-defense, defense of another, or defense of that person's residence, the court must grant the pretrial motion.³

Trial procedure

If the court grants the pretrial motion, the bill requires that at the trial of the accused person there is a rebuttable presumption that the accused person acted in self-defense, defense of another, or defense of that person's residence. The prosecution has the burden to rebut this presumption by proving beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence.⁴

If a person who is accused of an offense that involved the person's use of self-defense, defense of another, or defense of that person's residence does not file a pretrial motion, or the accused person files a pretrial motion, but the court denies the pretrial motion, the bill provides that at the trial of the accused person there is no rebuttable presumption that the accused person acted in self-defense, defense of another, or defense of that person's residence. However, at the trial of the accused person, the person is not precluded from asserting that the accused person acted in self-defense, defense of another, or defense of that person's residence.⁵

¹ R.C. 2901.05(B)(1).

² R.C. 2901.05(B)(1)(a).

³ R.C. 2901.05(B)(1)(b).

⁴ R.C. 2901.05(B)(1)(c).

⁵ R.C. 2901.05(B)(1)(d).

If an accused person described in the above paragraph asserts that the person acted in self-defense, defense of another, or defense of that person’s residence, and if at the trial of a person who is accused of an offense that involved the person’s use of force against another, there is evidence presented that tends to support by a preponderance of the evidence that the accused person used the force in self-defense, defense of another, or defense of that person’s residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person’s residence. The bill modifies current law by adding a burden of proof for the accused “by a preponderance of the evidence.”⁶

Definitions

The bill uses the following continuing law definitions:⁷

- **“Reasonable doubt”** is present when the jurors, after they have carefully considered and compared all the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reason and common sense. Reasonable doubt is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt.
- **“Proof beyond a reasonable doubt”** is proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person’s own affairs.

Self-Defense Protection Act

The bill names the act the Self-Defense Protection Act.⁸

HISTORY

Action	Date
Introduced	06-29-23

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⁶ R.C. 2901.05(B)(1)(e).

⁷ R.C. 2901.05(E).

⁸ Section 3.