

**First Regular Session
Seventy-Seventh General Assembly
STATE OF SAN ANDREAS**

ENGROSSED

LLS NO. 26-0727.02 Amirah Vasquez x2851

HOUSE BILL 26-022

SENATE SPONSORSHIP

Azalea, Daugherty

HOUSE SPONSORSHIP

Bennett, Cardenas

House Committees

Judiciary

Senate Committees

Not assigned

A BILL FOR AN ACT

CONCERNING CREATING A SELF DEFENSE CLAUSE IN DOMESTIC ABUSE CASES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <https://saleg.uscgov.com>)

This bill clarifies the application of self-defense law in cases involving ongoing domestic abuse. The bill allows courts and juries to consider documented patterns of abuse when evaluating whether a defendant reasonably believed the use of force was necessary to prevent serious bodily injury or death.

Under current law, self-defense generally requires that harm be imminent. This bill provides that, in cases involving spouses, former spouses, cohabitants, or intimate

Shading denotes HOUSE amendment. Underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

partners, the requirement of imminence shall not be interpreted to require that violence be occurring at the precise moment force is used, if credible evidence demonstrates an ongoing pattern of abuse and a reasonable belief that serious harm was likely in the near future.

The legislation permits admission of evidence such as prior police reports, protection orders, medical documentation, testimony regarding threats or repeated violence, and expert testimony concerning patterns of domestic abuse. The defendant retains the burden of producing supporting evidence, and the prosecution maintains the burden of proving beyond a reasonable doubt that the use of force was not justified.

The bill does not create a presumption of justification and does not authorize retaliatory violence. Instead, it provides guidance for courts and juries to assess reasonableness in the context of documented domestic abuse.

1 *Be it enacted by the General Assembly of the State of San*
2 *Andreas:*
3 **SECTION 1. SHORT TITLE.** This act shall be known and cited
4 as the “Spousal Self-Defense Protection Act.” **SECTION 2.**
5 **LEGISLATIVE FINDINGS AND INTENT.** (a) The General
6 Assembly finds and declares that: (I) Victims of domestic abuse
7 may experience ongoing patterns of violence, coercion, and
8 credible threats of serious bodily harm; (II) Traditional
9 self-defense standards requiring immediate or imminent harm
10 may not adequately account for circumstances involving sustained
11 abuse and credible future danger; (III) Courts should be permitted
12 to consider evidence of documented abuse when evaluating
13 claims of self-defense; (IV) The State has a compelling interest in
14 ensuring that victims of domestic violence are not unjustly
15 criminalized when acting to protect themselves from a pattern of
16 serious abuse; (V) It is the intent of the General Assembly to
17 clarify the application of self-defense law in cases involving
18 documented domestic abuse while preserving the prosecution’s

1 burden of proof beyond a reasonable doubt. **SECTION 3.**
2 ADDITION TO TITLE 11 — SELF-DEFENSE IN CASES OF
3 DOMESTIC ABUSE. A new section is added to Title 11 of the
4 San Andreas Revised Statutes as follows: §2.11.11. Self-Defense
5 in the Context of Ongoing Domestic Abuse. (a) In a prosecution
6 for homicide, assault, or other violent offense arising from
7 conduct against a spouse, former spouse, cohabitant, or intimate
8 partner, the defendant may assert self-defense where: (I) The
9 defendant was subjected to a pattern of domestic abuse by the
10 alleged victim; and (II) The defendant reasonably believed the use
11 of force was necessary to prevent serious bodily injury or death,
12 as evaluated from the perspective of a reasonable person in the
13 defendant’s circumstances, including the history of abuse known
14 to the defendant. (b) The requirement of imminent harm shall not
15 require that violence be occurring at the precise moment force
16 was used where credible evidence demonstrates a continuing
17 threat of serious bodily injury or death likely to occur within a
18 reasonably foreseeable period. (c) Evidence admissible under this
19 section may include: (I) Prior police reports, protection orders, or
20 criminal convictions; (II) Medical records documenting injuries;
21 (III) Testimony regarding threats, coercion, or repeated acts of
22 violence; (IV) Expert testimony concerning patterns of domestic
23 abuse, trauma responses, delayed reporting, survivor behavior, or
24 psychological effects of sustained abuse; (V) Evidence of prior
25 abusive conduct shall not be excluded solely because such
26 conduct did not result in arrest, prosecution, or conviction. (d) The
27 defendant shall have the burden of producing evidence supporting
28 the claim under this section. Upon such showing, the prosecution
29 retains the burden to prove beyond a reasonable doubt that the use
30 of force was not justified. (e) For purposes of this section, a
31 “pattern of domestic abuse” includes physical violence, threats of
32 violence, coercive control, stalking, intimidation, isolation,
33 economic abuse, or repeated conduct that would cause a

1 reasonable person to fear serious bodily injury or death. (f) Upon
2 motion of the defendant, the court may conduct a pretrial
3 evidentiary hearing to determine whether sufficient evidence
4 exists to permit presentation of a self-defense claim under this
5 section to the jury. (g) In evaluating justification under this
6 section, the trier of fact may consider whether patterns of abuse
7 reasonably limited the defendant's ability to safely retreat or seek
8 protection through alternative means. **SECTION 4.**
9 **LIMITATIONS.** (a) This Act does not create a presumption of
10 justification. (b) This Act does not authorize retaliatory or
11 punitive violence and applies only where the use of force is
12 motivated by prevention of reasonably anticipated serious bodily
13 injury or death. (c) Nothing in this Act shall be construed to
14 eliminate the availability of other affirmative defenses under state
15 law. **SECTION 5. JURY INSTRUCTION.** Courts shall provide
16 jury instructions explaining that reasonableness shall be evaluated
17 from the standpoint of a person subjected to ongoing domestic
18 abuse and that delayed defensive action may be consistent with
19 lawful self-defense where credible evidence of sustained abuse
20 exists. **SECTION 5.5. TRAINING.** (a) The Judicial Branch shall
21 develop educational materials regarding application of
22 self-defense law in cases involving domestic abuse. (b) Training
23 shall include trauma-informed evaluation of evidence and
24 survivor behavior. **SECTION 6. EFFECTIVE DATE.** This Act
25 shall take effect after the 90 day period following the final
26 adjournment of the Seventy-Seventh general assembly.