

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

REREVISED

LLS NO. 26-0716.04 Amirah Vasquez x2851

HOUSE BILL 26-011

SENATE SPONSORSHIP

Petty

HOUSE SPONSORSHIP

Mendoza, Howell, Schneider

House Committees

Judiciary

Senate Committees

Justice, Public Safety & Constitutional Affairs

A BILL FOR AN ACT

CONCERNING CODIFYING VALID DEFENSES FOR HOMICIDE.

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 establishes a unified legal framework for affirmative defenses in homicide cases, shifting the burden of proof to the defendant. While the prosecution must still prove the core elements of a crime beyond a reasonable doubt, the defendant is now required to prove self-defense or insanity by a preponderance of the evidence. The act codifies standards for justifiable force, the duty to retreat, and the criteria for mental incapacity while ensuring that jury instructions clearly reflect these shifting legal burdens.

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.

The legislation also addresses post-incident conduct, providing that a defendant's failure to immediately report an incident does not automatically bar a self-defense claim but may be considered regarding their credibility. It allows the trier of fact to account for the role of trauma and shock in a defendant's behavior following an event. Pending any referendum petitions, the act is scheduled to take effect ~~in August 2026~~ after being signed by the governor.

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 “Defense Clarification Act.” **SECTION 2. LEGISLATIVE**
5 **FINDINGS AND INTENT.** (a) Findings. The Legislature finds
6 that current state statutes defining the various classifications of
7 murder and homicide lack a unified and clearly articulated
8 framework for valid affirmative defenses, particularly concerning
9 the fundamental rights of self-defense and the established legal
10 principle of insanity. This deficiency can lead to inconsistent
11 application of justice and inadequate protection for individuals
12 who acted without criminal culpability. (b) Intent. It is the intent
13 of the general assembly to require that defendants who raise the
14 affirmative defenses of self-defense or insanity bear the burden of
15 proving those defenses by a preponderance of the evidence. This
16 ensures that these defenses are reserved for bona fide instances of
17 justification or incapacity while maintaining the prosecution's
18 duty to prove the core elements of the crime. **SECTION 3.**
19 **ENACTMENT OF ARTICLE 10 — DEFENSES TO**
20 **HOMICIDE.** A new article is hereby added to Title 11 of the San
21 Andreas Revised Statutes, to be designated as Article 10. **TITLE**
22 **11, ARTICLE 10 IS HEREBY CREATED AS FOLLOWS:**
23 **§2-11-10 — Affirmative Defenses to Homicide Charges.** (a)
24 **Defendant’s Burden.** Notwithstanding any other provision of law,
25 the defenses of Self-Defense (Justifiable Homicide) and Insanity
26 are affirmative defenses. The defendant shall bear the burden of

1 proving the elements of these defenses by a preponderance of the
2 evidence. (b) Self-Defense (Justifiable Homicide). (I) A person is
3 justified in using force, including deadly force, when the person
4 reasonably believes such force is necessary to protect themselves
5 or another from the imminent use of unlawful force.
6 Reasonableness shall be evaluated from the perspective of a
7 reasonable person in the defendant's circumstances, including
8 prior knowledge of threats or violence. (II) A person has a duty to
9 retreat only where safe retreat is reasonably available and known
10 to the defendant at the time, except when the person is within their
11 dwelling or place of lawful residence. (III) A person asserting
12 self-defense shall make reasonable efforts to notify law
13 enforcement or emergency services as soon as practicable
14 following the incident when it can be done safely. Failure to
15 provide notification shall not bar assertion of self-defense but may
16 be considered by the finder of fact solely for purposes of
17 credibility. (IV) Nothing in this section shall be construed to
18 compel a defendant to provide statements in violation of
19 constitutional protections against self-incrimination. (V) A person
20 may use lawful defensive force to protect a third person where the
21 defendant reasonably believes the third person would be justified
22 in using such force. (c) Defense of Insanity (Lack of Mens Rea).
23 (I) It shall be an affirmative defense that, as a result of a severe
24 mental disease or defect, the defendant lacked substantial capacity
25 either to appreciate the wrongfulness of their conduct or to
26 conform their conduct to the requirements of law. (II) Procedure.
27 If the defense of insanity is raised, the court shall follow existing
28 statutory procedures concerning notice, examination by
29 court-appointed experts, and disposition upon a finding of "not
30 guilty by reason of insanity" (NGRI). A finding of NGRI shall
31 result in commitment to a state mental health facility for care and
32 treatment, as prescribed by existing law. (d) Courts shall provide
33 standardized jury instructions explaining the burden of proof

1 applicable to affirmative defenses and clarifying that the defense
2 retains the ultimate burden of proving the defense by a
3 preponderance of the evidence. (e) In evaluating conduct
4 following an incident, the trier of fact may consider the effects of
5 shock, fear, injury, or psychological trauma on the defendant's
6 actions or reporting behavior. — close citation, end of
7 amendments — ~~SECTION 4. EFFECTIVE DATE. Act subject to~~
8 ~~petition — effective date. This act takes effect on August 18, 2026,~~
9 ~~assuming the general assembly adjourns sine die on May 18,~~
10 ~~2026; except that, if a veto petition is filed pursuant to Article II,~~
11 ~~Section 15 of the state constitution against this act or an item,~~
12 ~~section, or part of this act within such period, then the act, item,~~
13 ~~section, or part will not take effect unless approved by the people~~
14 ~~at the general election to be held in November 2026 and, in such~~
15 ~~case, will take effect on the date of the official declaration of the~~
16 ~~vote thereon by the governor. SECTION 4. SAFETY CLAUSE -~~
17 ~~EFFECTIVE DATE. The General Assembly finds, determines,~~
18 ~~and declares that this act is necessary for the immediate~~
19 ~~preservation of the public peace, health, and safety, therefore this~~
20 ~~act shall take effect immediately after being signed into law by the~~
21 ~~Governor.~~