

## HOUSE BILL 26-011

By Senator(s) Petty  
also Representative(s) Mendoza, Howell, Schneider

**AN ACT**  
**CONCERNING CODIFYING VALID DEFENSES**  
**FOR HOMICIDE.**

Be It Enacted by the General Assembly of the State of San Andreas:

**SECTION 1. SHORT TITLE.**

This act shall be known and cited as the “Defense Clarification Act.”

**SECTION 2. LEGISLATIVE FINDINGS AND INTENT.**

(a) Findings. The Legislature finds that current state statutes defining the various classifications of murder and homicide lack a unified and clearly articulated framework for valid affirmative defenses, particularly concerning the fundamental rights of self-defense and the established legal principle of insanity. This deficiency can lead to inconsistent application of justice and inadequate protection for individuals who acted without criminal culpability.

(b) Intent. It is the intent of the general assembly to require that defendants who raise the affirmative defenses of self-defense or insanity bear the burden of proving those defenses by a preponderance of the evidence. This ensures that these defenses are reserved for bona fide instances of justification or incapacity while maintaining the prosecution's duty to prove the core elements of the crime.

**SECTION 3. ENACTMENT OF ARTICLE 10 — DEFENSES TO HOMICIDE.**

A new article is hereby added to Title 11 of the San Andreas Revised Statutes, to be designated as Article 10. TITLE 11, ARTICLE 10 IS HEREBY CREATED AS FOLLOWS: §2-11-10 — Affirmative Defenses to Homicide Charges.

(a) Defendant’s Burden. Notwithstanding any other provision of law, the defenses of Self-Defense (Justifiable Homicide) and Insanity are affirmative defenses. The defendant shall bear the burden of proving the elements of these defenses by a preponderance of the evidence.

(b) Self-Defense (Justifiable Homicide).

(I) A person is justified in using force, including deadly force, when the person reasonably believes such force is necessary to protect themselves or another from the imminent use of unlawful force. Reasonableness shall be evaluated from the perspective of a reasonable person in the defendant’s circumstances, including prior knowledge of threats or violence.

(II) A person has a duty to retreat only where safe retreat is reasonably available and known to the defendant at the time, except when the person is within their dwelling or place of lawful residence.

(III) A person asserting self-defense shall make reasonable efforts to notify law enforcement or emergency services as soon as practicable following the incident when it can be done safely. Failure to provide notification shall not bar assertion of self-defense but may be considered by the finder of fact solely for purposes of credibility.

(IV) Nothing in this section shall be construed to compel a defendant to provide statements in violation of constitutional protections against self-incrimination.

(V) A person may use lawful defensive force to protect a third person where the defendant reasonably believes the third person would be justified in using such force.

(c) Defense of Insanity (Lack of Mens Rea).

(I) It shall be an affirmative defense that, as a result of a severe mental disease or defect, the defendant lacked substantial capacity either to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of law.

(II) Procedure. If the defense of insanity is raised, the court shall follow existing statutory procedures concerning notice, examination by court-appointed experts, and disposition upon a finding of “not guilty by reason of insanity” (NGRI). A finding of NGRI shall result in commitment to a state mental health facility for care and treatment, as prescribed by existing law.

(d) Courts shall provide standardized jury instructions explaining the burden of proof applicable to affirmative defenses and clarifying that the defense retains the ultimate burden of proving the defense by a preponderance of the evidence.

(e) In evaluating conduct following an incident, the trier of fact may consider the effects of shock, fear, injury, or psychological trauma on the defendant’s actions or reporting behavior.