



SPONSOR: Rep. Lynn

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2
TO
SENATE BILL NO. 147

1 AMEND Senate Bill No. 147 by striking lines 220 through 225 in their entirety and inserting in lieu thereof the
2 following:

3 “(e)(1) “Reasonably believes”, when applied to a defendant who is not a law enforcement officer, means holds a
4 belief that is reasonable from the viewpoint of a reasonable person in the defendant’s situation under the totality of facts
5 and circumstances of the case.

6 (2) “Reasonably believes”, when applied to a defendant who is a law enforcement officer acting in the
7 officer’s official capacity, means holds a belief that is reasonable from the viewpoint of a reasonable law enforcement
8 officer in the defendant’s situation under the totality of facts and circumstances of the case.

9 (f) “Totality of facts and circumstances of the case” includes the defendant’s mental health and intellectual
10 functioning, prior victimization of the defendant, and knowledge or awareness of the victim’s past acts of violence.”

SYNOPSIS

Delaware courts have held that factors relevant to a determination of whether a defendant’s use of force was justified are admissible. See, *State v. Stephenson*, 2014 Del. Super. LEXIS 305 (Del. Super. 2014); *Kelly v. State*, 981 A.2d 547 (Del. 2008); *Tice v. State*, 624 A.2d 399 (Del. 1993). Such factors include the defendant’s mental health and intellectual functioning, prior victimization, and knowledge or awareness of the victim’s past acts of violence. This amendment clarifies that, although the standard for use of force is changing from subjective to objective, the change does not alter or foreclose what evidence is admissible to determine whether the use of force by the defendant was justified under the totality of facts and circumstances of the case.