



State of Tennessee

PUBLIC CHAPTER NO. 778

SENATE BILL NO. 1760

By Briggs, Yager, Roberts, Bailey, Bowling, Crowe, Gardenhire, Green, Gresham, Kelsey, Niceley, Norris, Overbey, Tracy, Watson, Jackson

Substituted for: House Bill No. 1929

By Zachary, Ragan, Rogers, Goins, Reedy, McCormick, Butt, Daniel, Van Huss, Johnson, Casada, Marsh, Lundberg, Smith, Carter, Kane, Mark White, Gravitt, Holt, Kevin Brooks, Sargent, Terry, Weaver, Moody, Matthew Hill, Byrd, Travis, Durham, Favors, Camper, McManus, Harry Brooks, Lollar, Timothy Hill, Forgety, Williams, Powers, Sparks, Hardaway, Windle, Dunlap

AN ACT to amend Tennessee Code Annotated, Title 58, Chapter 1, relative to liability protections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 58-1-227, is amended by adding the following as a new subsection (c):

(1) Notwithstanding § 39-11-605 or § 39-11-622(a)(1)(B), if a member of the national guard uses force against another, including by discharging a personally owned firearm, and a civil cause of action is commenced against the national guard member alleging that the use of force resulted in the death or injury of, or property damage to, the person commencing the action, the national guard member shall have civil immunity with respect to any person commencing an action that is based on the national guard member's use of force, if the court in which the action is filed determines the national guard member:

(A) Used force against the person bringing the action that was justifiable self-defense, in accordance with § 39-11-611, or justifiable defense of others, in accordance with § 39-11-612;

(B) Was on duty or in uniform at the time force was used; and

(C) If the use of force involved the discharge of a personally owned handgun, was authorized to possess or carry a handgun pursuant to § 39-17-1351 and authorized by the military department to carry a personally owned handgun while on-duty or in uniform.

(2)(A) As soon as possible after the national guard member's use of force, the attorney general and reporter shall investigate and determine whether the national guard member's use of force complied with the requirements of subdivisions (c)(1)(A)-(C). If the attorney general determines that the use of force was justifiable, the national guard member shall receive legal counsel designated as provided by title 8, chapter 42, to represent the national guard member if any action is commenced by any person against the national guard member that is based upon the national guard member's justified use of force.

(B) If the attorney general and reporter determines the national guard member's use of force was not justified and declines to provide legal counsel, the provision of § 39-11-622(b) shall be applicable and available to the national guard member.

(3) If any civil or administrative action is brought against the national guard member that is based on the national guard member's use of force, the trier of fact shall first determine if the use of force complied with the requirements of subdivisions (c)(1)(A)-(C). If

the trier of fact finds the national guard member's use of force did comply, the action against the national guard member shall be dismissed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: March 28, 2016



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 12th day of April 2016



BILL HASLAM, GOVERNOR