SYNOPSIS: Under existing law, a person is justified in using physical force, including deadly force, in self-defense or in the defense of another person under certain conditions, and an occupant of a dwelling or business property may use deadly physical force, and is legally presumed to be justified in using deadly physical force, in self-defense or the defense of another person against a person committing or attempting to commit certain specified crimes.

This bill would further provide for the justification for a person to use deadly physical force in self-defense or in the defense of another person on the premises of a church under certain conditions.
Relating to self-defense and the defense of others; to further provide for the justification for a person to use deadly physical force in self-defense or in the defense of another person on the premises of a church under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Church Protection Act.

Section 2. (a) For the purposes of this section, the following words have the following meanings:

(1) CHURCH. The premises of an establishment where religious services are regularly conducted by a bona fide duly constituted religious society or ecclesiastical body of any sect, order, or denomination, or any congregation thereof. The term includes a synagogue or mosque, but does not include a private dwelling.

(2) DEADLY PHYSICAL FORCE. Force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

(3) FORCE. Physical action or threat against another, including confinement.

(4) PREMISES. The term includes any building and any real property of the church.

(b) In addition to any authorization for the use of deadly physical force under Section 13A-3-23, Code of Alabama 1975, a person may use deadly physical force, and is legally presumed to be justified in using deadly physical force in
self-defense or the defense of another person, if the person reasonably believes that another person is using or about to use physical force against an employee, volunteer, member of a church, or any other person authorized to be on the premises of the church when the church is open or closed to the public while committing or attempting to commit a crime involving death, serious physical injury, robbery in the first degree, or kidnapping in the first degree.

(c) A person who is justified under subsection (b) in using deadly physical force, who is not engaged in an unlawful activity, and is in any place where he or she has the right to be, has no duty to retreat and has the right to stand his or her ground.

(d) A person who uses force, including deadly physical force, as justified and permitted in this section is immune from criminal prosecution and civil action for the use of such force, unless the force was determined to be unlawful.

(e)(1) Prior to the commencement of a trial in a case in which a defense is claimed under this section, the court having jurisdiction over the case, upon motion of the defendant, shall conduct a pretrial hearing to determine whether deadly force, used by the defendant was justified or whether it was unlawful under this section. During any pretrial hearing to determine immunity, the defendant must show by a preponderance of the evidence that he or she is immune from criminal prosecution.
(2) If, after a pretrial hearing under subdivision (1), the court concludes that the defendant has proved by a preponderance of the evidence that force, including deadly force, was justified, the court shall enter an order finding the defendant immune from criminal prosecution and dismissing the criminal charges.

(3) If the defendant does not meet his or her burden of proving immunity at the pretrial hearing, he or she may continue to pursue the defense of self-defense or defense of another person at trial. Once the issue of self-defense or defense of another person has been raised by the defendant, the state continues to bear the burden of proving beyond a reasonable doubt all of the elements of the charged conduct.

(f) A law enforcement agency may use standard procedures for investigating the use of force described in subsection (b), but the agency may not arrest the person for using force unless it determines that there is probable cause that the force used was unlawful.

(g) This section is supplemental to any other law on self-defense or defense of another person.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.