

HB192 INTRODUCED



1 HB192
2 I3RK36W-1
3 By Representative Faulkner
4 RFD: Judiciary
5 First Read: 13-Jan-26



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SYNOPSIS:

Under existing law, an individual is justified in using physical force upon another in order to defend himself or herself or a third party from what the acting individual reasonably believes to be the use or imminent use of unlawful physical force by another. Existing law also provides specified circumstances where an individual may use deadly physical force against another.

Prior to the commencement of a trial against a defendant in which the defendant claims his or her use of force is justified, the defendant must show by a preponderance of the evidence that his or her use of force was justified.

This bill would provide that in such a proceeding, if the defendant concealed, altered, destroyed, or otherwise disposed of a weapon used in the commission of physical force or deadly physical force, other than voluntarily providing the weapon to law enforcement, there is a presumption that the defendant's use of force was not justified.

A BILL



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29 TO BE ENTITLED

30 AN ACT

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32 Relating to criminal law; to amend Section 13A-3-23,
33 Code of Alabama 1975, to further provide for the justification
34 of using physical force in defense of self or an individual;
35 to establish a presumption that the use of force in defense of
36 self or another is not justified when a defendant engages in
37 certain conduct.

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

39 Section 1. Section 13A-3-23, Code of Alabama 1975, is
40 amended to read as follows:

41 "§13A-3-23

42 (a) A person is justified in using physical force upon
43 another person ~~in order to~~ when both of the following are
44 satisfied:

45 (1) The person's use of force is to defend himself or
46 herself or a third person from what he or she reasonably
47 believes to be the use or imminent use of unlawful physical
48 force by another ~~that other person, and he or she may use.~~

49 (2) The person uses a degree of force which he or she
50 reasonably believes to be necessary for the purpose.

51 (b) (1) A person may use deadly physical force, and is
52 legally presumed to be justified in using deadly physical
53 force in self-defense or ~~the~~ defense of another ~~person~~
54 pursuant to this subdivision ~~(5)~~, if the person reasonably
55 believes that another person is doing any of the following:

56 ~~(1)~~ a. Using or about to use unlawful deadly physical



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57 force.

58 ~~(2)~~b. Using or about to use physical force against an
59 occupant of a dwelling while committing or attempting to
60 commit a burglary of such dwelling.

61 ~~(3)~~c. Committing or about to commit a kidnapping in any
62 degree, assault in the first or second degree, burglary in any
63 degree, robbery in any degree, forcible rape, or forcible
64 sodomy.

65 ~~(4)~~d. Using or about to use physical force against an
66 owner, employee, or other person authorized to be on business
67 property when the business is closed to the public while
68 committing or attempting to commit a crime involving death,
69 serious physical injury, robbery, kidnapping, rape, sodomy, or
70 a crime of a sexual nature involving a child under ~~the age of~~
71 12 years of age.

72 ~~(5)~~e. In the process of unlawfully and forcefully
73 entering, or has unlawfully and forcefully entered, a
74 dwelling, residence, business property, or occupied vehicle,
75 or federally licensed nuclear power facility, or is in the
76 process of sabotaging or attempting to sabotage a federally
77 licensed nuclear power facility, or is attempting to remove,
78 or has forcefully removed, a person against his or her will
79 from any dwelling, residence, business property, or occupied
80 vehicle when the person has a legal right to be there, and
81 provided that the person using the deadly physical force knows
82 or has reason to believe that an unlawful and forcible entry
83 or unlawful and forcible act is occurring.

84 (2) The legal presumption that a person using deadly



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85 physical force is justified to do so pursuant to this
86 subdivision does not apply if any of the following apply:

87 a. The person against whom the defensive force is used
88 has the right to be in or is a lawful resident of the
89 dwelling, residence, or vehicle, such as an owner or lessee,
90 and there is not an injunction for protection from domestic
91 violence or a written pretrial supervision order of no contact
92 against that person;

93 b. The person sought to be removed is a child or
94 grandchild, or is otherwise in the lawful custody or under the
95 lawful guardianship of, the person against whom the defensive
96 force is used;

97 c. The person who uses defensive force is engaged in an
98 unlawful activity or is using the dwelling, residence, or
99 occupied vehicle to further an unlawful activity; or

100 d. The person against whom the defensive force is used
101 is a law enforcement officer acting in the performance of his
102 or her official duties.

103 ~~(b)~~ (c) A person who is otherwise justified under
104 ~~subsection (a)~~ this section in using physical force, including
105 deadly physical force, and who is not engaged in an unlawful
106 activity, and who is in any place where he or she has the
107 right to be has no duty to retreat and has the right to stand
108 his or her ground.

109 ~~(e)~~ (d) Notwithstanding the provisions of subsection (a)
110 or (b), a person is not justified in using physical force if
111 any of the following apply:

112 (1) With intent to cause physical injury or death to



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113 another ~~person~~, he or she provoked the use of unlawful
114 physical force by ~~such~~ the other person.

115 (2) He or she was the initial aggressor, except that
116 his or her use of physical force upon another person ~~under the~~
117 ~~circumstances~~ is justifiable if he or she withdraws from the
118 encounter and effectively communicates to the other person his
119 or her intent to do so, but the ~~latter~~ other person
120 nevertheless continues or threatens the use of unlawful
121 physical force.

122 (3) The physical force involved was the product of a
123 combat by agreement not specifically authorized by law.

124 (e) At any time when a defense is claimed under this
125 section, if the defendant concealed, altered, destroyed, or
126 otherwise disposed of the weapon used in the commission of the
127 alleged offense, other than by voluntarily providing the
128 unaltered weapon to law enforcement, there shall be a
129 rebuttable presumption that the defendant's use of physical
130 force, including deadly physical force, was not justified.

131 ~~(d)~~ (f) (1) A person who uses force, including deadly
132 physical force, as justified and permitted in this section, is
133 immune from criminal prosecution and civil action for the use
134 of such force, unless the force was determined to be unlawful.

135 (2) Prior to the commencement of a trial in a case in
136 which a defense is claimed under this section, the court
137 having jurisdiction over the case, upon motion of the
138 defendant, shall conduct a pretrial hearing to determine
139 whether force, including deadly force, used by the defendant
140 was justified or whether it was unlawful under this section.



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141 During any pretrial hearing to determine immunity, the
142 defendant must show by a preponderance of the evidence that he
143 or she is immune from criminal prosecution.

144 (3) If, after a pretrial hearing under subdivision (2),
145 the court concludes that the defendant has proven by a
146 preponderance of the evidence that force, including deadly
147 force, was justified, the court shall enter an order finding
148 the defendant immune from criminal prosecution and dismissing
149 the criminal charges.

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

157 ~~(e)~~ (g) A law enforcement agency may use standard
158 procedures for investigating the use of force described in
159 ~~subsection (a)~~ this section, but ~~the agency~~ may not arrest ~~the~~
160 any person for using force unless ~~it determines that~~ there is
161 probable cause that the force used was unlawful."

162 Section 2. This act shall become effective on October
163 1, 2026.