

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1240

5 By: Representatives Tosh, Drown, Bentley, M. Gray, Harris, G. Hodges, Ladyman, Richmond, Rushing,
6 B. Smith, Sullivan, Vaught, Wallace, Wardlaw
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE USE OF DEADLY PHYSICAL FORCE IN
10 DEFENSE OF A PERSON; TO BE KNOWN AS THE "STAND YOUR
11 GROUND LAW"; AND FOR OTHER PURPOSES.
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Subtitle

15 CONCERNING THE USE OF DEADLY PHYSICAL
16 FORCE IN DEFENSE OF A PERSON; AND TO BE
17 KNOWN AS THE "STAND YOUR GROUND LAW".
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 5-2-607 is amended to read as follows:

23 5-2-607. Use of deadly physical force in defense of a person.

24 (a) A person is justified in using deadly physical force upon another
25 person if the person reasonably believes that the other person is:

26 (1) Committing or about to commit a felony involving force or
27 violence;

28 (2) Using or about to use unlawful deadly physical force; or

29 (3) Imminently endangering the person's life or imminently about
30 to victimize the person as described in § 9-15-103 from the continuation of a
31 pattern of domestic abuse.

32 ~~(b) A person may not use deadly physical force in self-defense if the~~
33 ~~person knows that he or she can avoid the necessity of using deadly physical~~
34 ~~force with complete safety.~~

35 ~~(1)(A) By retreating.~~

36 ~~(B) However, a person is not required to retreat if the~~



1 ~~person is:~~

2 ~~(i) In the person's dwelling or on the curtilage~~
 3 ~~surrounding the person's dwelling and was not the original aggressor; or~~

4 ~~(ii) A law enforcement officer or a person assisting~~
 5 ~~at the direction of a law enforcement officer; or~~

6 ~~(2) By surrendering possession of property to a person claiming a~~
 7 ~~lawful right to possession of the property.~~

8 (b) When a person uses deadly physical force upon another person, the
 9 person is presumed to have reasonably believed the other person was engaging
 10 in conduct described in subdivision (a)(1), (a)(2), or (a)(3) of this section
 11 if:

12 (1) The person against whom the deadly physical force was used:

13 (A) Was in the process of unlawfully and forcefully
 14 entering or had unlawfully and forcibly entered, a dwelling or occupiable
 15 structure; or

16 (B) Had removed or was attempting to remove another person
 17 against that person's will from a dwelling or occupiable structure; and

18 (2) The person who used deadly physical force knew or reasonably
 19 believed that the person against whom deadly physical force was used was
 20 engaging in conduct described in subdivision (b)(1) of this section.

21 (c) The presumption set forth in subsection (b) of this section does
 22 not apply if:

23 (1) The person removed or sought to be removed is a child,
 24 grandchild, or other person that is in the lawful custody or under the lawful
 25 guardianship of the person against whom the deadly physical force is used;

26 (2) The person who used deadly physical force is engaged in an
 27 unlawful activity or is using the dwelling or occupiable structure to further
 28 an unlawful activity;

29 (3) The person against whom the deadly physical force is used is
 30 a law enforcement officer who:

31 (A) Enters or attempts to enter a dwelling or occupiable
 32 structure in the performance of his or her official duties; and

33 (B) Identifies himself or herself in accordance with
 34 applicable law;

35 (4) The person who used deadly physical force knew or reasonably
 36 should have known that the person entering or attempting to enter a dwelling

1 or occupiable structure was a law enforcement officer; or

2 (5) The person who used deadly physical force knew or reasonably
 3 should have known that the use of deadly physical force was not reasonably
 4 necessary to prevent conduct described in subdivision (a)(1), (a)(2), or
 5 (a)(3) of this section.

6 (d) A person who is not engaged in an unlawful activity and who is in
 7 any place where he or she has a legal right to be present and who is
 8 confronted with conduct described in subdivision (a)(1), (a)(2), or (a)(3) of
 9 this section does not have a duty to retreat and has the right to stand his
 10 or her ground with deadly physical force.

11 (e) A person who unlawfully and by force enters or attempts to enter a
 12 dwelling or occupiable structure in violation of an order of protection,
 13 restraining order, or condition of bond is presumed to be doing so with the
 14 purpose to engage in conduct described in subdivision (a)(1), (a)(2), or
 15 (a)(3) of this section regardless of whether the person is a resident, owner,
 16 lessor, lessee, or titleholder of the dwelling or occupiable structure.

17 (f) A person who uses deadly physical force under circumstances
 18 described in subsection (b) or (d) of this section is justified in using the
 19 deadly physical force and is immune from civil action for the use of the
 20 deadly physical force.

21 (g) A court shall award reasonable attorney fees, court costs,
 22 compensation for loss of income, and all expenses incurred by a person in
 23 defense of a civil action brought by another person if the court finds that
 24 the person is immune from civil action as provided in subsection (f) of this
 25 section.

26 ~~(e)~~(h) As used in this section,†

27 ~~(1) “Curtilage” means the land adjoining a dwelling that is~~
 28 ~~convenient for residential purposes and habitually used for residential~~
 29 ~~purposes, but not necessarily enclosed, and includes an outbuilding that is~~
 30 ~~directly and intimately connected with the dwelling and in close proximity to~~
 31 ~~the dwelling; and~~

32 ~~(2) “Domestic “domestic abuse” means:~~

33 ~~(A)(1) Physical harm, bodily injury, assault, or the infliction~~
 34 ~~of fear of imminent physical harm, bodily injury, or assault between family~~
 35 ~~or household members; or~~

36 ~~(B)(2) Any sexual conduct between family or household members,~~

1 whether minors or adults, that constitutes a crime under the laws of this
2 state.

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