

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1059

5 By: Representative Pilkington
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For An Act To Be Entitled

8 AN ACT CONCERNING THE USE OF PHYSICAL FORCE IN SELF-
9 DEFENSE OR IN THE DEFENSE OF OTHERS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12 CONCERNING THE USE OF PHYSICAL FORCE IN
13 SELF-DEFENSE OR IN THE DEFENSE OF OTHERS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 5-2-606 is amended to read as follows:

21 5-2-606. Use of physical force in defense of a person.

22 (a)(1) A person is justified in using physical force upon another
23 person to defend himself or herself or a third person from what the person
24 reasonably believes to be the use or imminent use of unlawful physical force
25 by that other person, and the person may use a degree of force that he or she
26 reasonably believes to be necessary.

27 (2) A person is justified in using physical force upon another
28 person in defense of a person at any location where the person is lawfully
29 present.

30 ~~(2) However, the~~

31 (3) A person may not use deadly physical force except as
32 provided in under § 5-2-607.

33 (b) A person is not justified in using physical force upon another
34 person if:

35 (1) With purpose to cause physical injury or death to the other
36 person, the person provokes the use of unlawful physical force by the other



1 person;

2 (2)(A) The person is the initial aggressor.

3 (B) However, the initial aggressor's use of physical force
4 upon another person is justifiable if:

5 (i) The initial aggressor in good faith withdraws
6 from the encounter and effectively communicates to the other person his or
7 her purpose to withdraw from the encounter; and

8 (ii) The other person continues or threatens to
9 continue the use of unlawful physical force; ~~or~~

10 (3) The physical force involved is the product of a combat by
11 agreement not authorized by law; or

12 (4) The other person is at that time committing or attempting to
13 commit a felony involving physical force or violence.

14
15 SECTION 2. Arkansas Code § 5-2-607 is amended to read as follows:

16 5-2-607. Use of deadly physical force in defense of a person.

17 (a) A person is justified in using deadly physical force upon another
18 person if the person is justified in using physical force against another
19 person under § 5-2-606 and the person reasonably believes that the other
20 person is:

21 (1) Committing or about to commit a felony involving physical
22 force or violence;

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

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

27 (b) A person's belief under subsection (a) of this section is presumed
28 to be reasonable if the person:

29 (1) Knew or had reason to believe that the person against whom
30 the deadly physical force was used:

31 (A) Unlawfully and with physical force entered, or was
32 attempting to enter unlawfully and with physical force, the person's occupied
33 dwelling, vehicle, or occupiable structure;

34 (B) Unlawfully and with physical force removed, or was
35 attempting to remove unlawfully and with physical force, the person from the
36 person's dwelling, vehicle, or occupiable structure; or

1 (C) Was committing or attempting to commit a felony
 2 involving physical force or violence; and

3 (2) Did not provoke the person against whom the deadly physical
 4 force was used.

5 (c) A person who is lawfully present at the location where the deadly
 6 physical force is used, who has not provoked the person against whom the
 7 deadly physical force is used, and who is not engaged in criminal activity at
 8 the time the deadly physical force is used is not required to retreat before
 9 using deadly physical force as described in this section.

10 (d) In determining whether a person reasonably believed that the use
 11 of deadly physical force was necessary, a finder of fact may not consider
 12 whether the person failed to retreat.

13 ~~(b) A person may not use deadly physical force in self-defense if the~~
 14 ~~person knows that he or she can avoid the necessity of using deadly physical~~
 15 ~~force.~~

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

17 ~~(B) However, a person is not required to retreat if the~~
 18 ~~person is:~~

19 ~~(i) Unable to retreat with complete safety;~~

20 ~~(ii) In the person's dwelling or on the curtilage~~
 21 ~~surrounding the person's dwelling and was not the original aggressor; or~~

22 ~~(iii) A law enforcement officer or a person~~
 23 ~~assisting at the direction of a law enforcement officer; or~~

24 ~~(2) With complete safety by surrendering possession of property~~
 25 ~~to a person claiming a lawful right to possession of the property.~~

26 ~~(e)(e) 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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