

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

As Engrossed: H1/28/19

A Bill

HOUSE BILL 1059

5 By: Representative Pilkington
6 By: Senators G. Stubblefield, B. Ballinger, T. Garner
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE USE OF PHYSICAL FORCE IN SELF-
10 DEFENSE OR IN THE DEFENSE OF OTHERS; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

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

22 5-2-606. Use of physical force in defense of a person.

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

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

31 ~~(2) However, the~~

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

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

36 (1) With purpose to cause physical injury or death to the other



1 person, the person provokes the use of unlawful physical force by the other
2 person;

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

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

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

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

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

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

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

17 5-2-607. Use of deadly physical force in defense of a person.

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

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

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

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

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

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

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

35 (B) Unlawfully and with physical force removed, or was
36 attempting to remove unlawfully and with physical force, the person from the

1 person's dwelling, vehicle, or occupiable structure; or

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

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

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

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

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

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

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

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

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

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

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

27 ~~(e)(e) As used in this section,~~

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

33 ~~(2) "Domestic "domestic abuse" means:~~

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

1 ~~(B)~~(2) Any sexual conduct between family or household members,
2 whether minors or adults, that constitutes a crime under the laws of this
3 state.

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/s/Pilkington