

1 State of Arkansas *As Engrossed: H1/28/19 H2/6/19*

2 92nd General Assembly

A Bill

3 Regular Session, 2019

HOUSE BILL 1059

4

5 By: Representative Pilkington

6 *By: Senators G. Stubblefield, B. Ballinger, T. Garner*

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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.

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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 physical force that*
27 *he or she reasonably believes to be necessary.*

28 *(2) However, the person may not use deadly physical force except*
29 *as provided in § 5-2-607.*

30 *(3) A person who uses or threatens to use physical force in*
31 *accordance with this section does not have a duty to retreat before using or*
32 *threatening to use physical force.*

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.

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

14 5-2-607. Use of deadly physical force in defense of a person.

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

17 (1) Committing or about to commit a felony involving force or
18 violence;

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

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

23 ~~(b) A person may not use deadly physical force in self-defense if the~~
24 ~~person knows that he or she can avoid the necessity of using deadly physical~~
25 ~~force;~~

26 ~~(1)(A) By retreating;~~

27 ~~(B) However, a person is not required to retreat if the~~
28 ~~person is;~~

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

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

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

34 ~~(2) With complete safety by surrendering possession of property~~
35 ~~to a person claiming a lawful right to possession of the property;~~

36 (b) It is an affirmative defense to a prosecution for the use of

1 deadly physical force upon another person that the person who used the deadly
2 physical force:

3 (1) Reasonably believed his or her life was in imminent danger;

4 (2) Was lawfully present at the location where the deadly
5 physical force was used;

6 (3) Did not provoke the person upon whom the deadly physical
7 force was used; and

8 (4) Was not engaged in criminal activity that gave rise to the
9 need for the use of deadly physical force at the time the deadly physical
10 force was used.

11 (c)(1) A person is not required to retreat before using deadly
12 physical force under this section.

13 (2) In determining whether a person reasonably believed that the
14 use of deadly physical force was necessary, the finder of fact shall not
15 consider if the person failed to retreat.

16 ~~(e)(d)~~ As used in this section+,

17 ~~(1) "Curtilage" means the land adjoining a dwelling that is~~
18 ~~convenient for residential purposes and habitually used for residential~~
19 ~~purposes, but not necessarily enclosed, and includes an outbuilding that is~~
20 ~~directly and intimately connected with the dwelling and in close proximity to~~
21 ~~the dwelling; and~~

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

23 ~~(A)(1) Physical harm, bodily injury, assault, or the infliction~~
24 ~~of fear of imminent physical harm, bodily injury, or assault between family~~
25 ~~or household members; or~~

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

30 /s/Pilkington