

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

A Bill

SENATE BILL 484

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

For An Act To Be Entitled

8
9 AN ACT CONCERNING THE DEFENSE OF A PERSON WITH THE
10 USE OF DEADLY FORCE; AND FOR OTHER PURPOSES.
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Subtitle

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14 CONCERNING THE DEFENSE OF A PERSON WITH
15 THE USE OF DEADLY FORCE.
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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 physical force that
26 he or she reasonably believes to be necessary.

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

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

32 (B) In determining if a person reasonably believes the use
33 of physical force was necessary, the finder of fact shall not consider if the
34 person failed to retreat.

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



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

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

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

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

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

12 (3) The physical force involved is the product of a combat by
 13 agreement not authorized by law.

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 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 reasonably believes that the other person is:

19 (1) Committing or about to commit a felony involving force or
 20 violence;

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

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

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

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

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

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

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

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

36 ~~(2) With complete safety by surrendering possession of property~~

~~to a person claiming a lawful right to possession of the property.~~

(b)(1) A person is not required to retreat before using deadly physical force if the person:

(A) Is lawfully present at the location where deadly physical force is used;

(B) Has not provoked the person against whom the deadly physical force is used;

(C) Is not in unlawful possession of a weapon used to commit the deadly physical force; and

(D) Is not engaged in criminal activity that gives rise to the need for the use of deadly physical force at the time the deadly physical force is used.

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

(c) As used in this section+,

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

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

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

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