

1 State of Arkansas As Engrossed: S4/1/19 S4/2/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 484

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5 By: Senators B. Ballinger, G. Stubblefield, T. Garner, B. Johnson, Flippo, Hester

6 By: Representatives Pilkington, Richmond, Gonzales, Cavanaugh, McCollum, Breaux, G. Hodges,

7 Bentley

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For An Act To Be Entitled

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AN ACT CONCERNING THE DEFENSE OF A PERSON WITH THE

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USE OF *PHYSICAL FORCE OR DEADLY FORCE*; AND FOR OTHER

12

PURPOSES.

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Subtitle

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CONCERNING THE DEFENSE OF A PERSON WITH

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THE USE OF PHYSICAL FORCE OR DEADLY

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FORCE.

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21 *BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:*

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23 *SECTION 1. Arkansas Code § 5-2-606 is amended to read as follows:*

24 *5-2-606. Use of physical force in defense of a person.*

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

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

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

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~~

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

2 (b)(1) The defense available under this section is an affirmative
3 defense.

4 (2) If, at the trial of a person who is accused of an offense
5 that involved the person's use of deadly physical force against another
6 person, there is evidence presented that tends to support that the accused
7 person used the deadly physical force in self-defense, defense of another
8 person, or defense of that person's residence, the state must prove beyond a
9 reasonable doubt that the accused person did not use the deadly physical
10 force in self-defense, defense of another person, or defense of that person's
11 residence.

12 (c) A person is not required to retreat before using deadly physical
13 force if the person:

14 (1) Is lawfully present at the location where deadly physical
15 force is used;

16 (2) Has a reasonable belief that there is an imminent danger of
17 death or serious physical injury;

18 (3) Has not provoked the person against whom the deadly physical
19 force is used;

20 (4) Is not in unlawful possession of a weapon used to employ the
21 deadly physical force;

22 (5) Is not engaged in criminal activity that gives rise to the
23 need for the use of deadly physical force at the time the deadly physical
24 force is used; and

25 (6) Is not engaged in any activity in furtherance of a criminal
26 gang, organization, or enterprise as defined in § 5-74-103.

27 ~~(e)(d) 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~~

