

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1526

5 By: Representative Pilkington
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For An Act To Be Entitled

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

12 CONCERNING THE DEFENSE OF A PERSON WITH
13 THE USE OF PHYSICAL FORCE OR DEADLY
14 PHYSICAL FORCE.
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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 (b) A person is not justified in using physical force upon another
31 person if:

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

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

36 (B) However, the initial aggressor's use of physical force



1 upon another person is justifiable if:

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

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

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

9 (c) A person who uses or threatens to use physical force as otherwise
 10 permitted under this subchapter does not have a duty to retreat before using
 11 or threatening to use the physical force if the person is:

12 (1) Lawfully present in the location;

13 (2) Not engaged in criminal activity that gives rise to the need
 14 to use physical force; and

15 (3) Not engaged in any activity in furtherance of a criminal
 16 gang, organization, or enterprise as defined under § 5-74-103.

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

19 5-2-607. Use of deadly physical force in defense of a person.

20 (a) A person is justified in using deadly physical force upon another
 21 person if the person reasonably believes that the other 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 may not use deadly physical force in self-defense if the~~
 29 ~~person knows that he or she can avoid the necessity of using deadly physical~~
 30 ~~force;~~

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

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

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

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

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

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

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

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

9 (2) Has a reasonable belief that the person against whom the
 10 deadly physical force is used is imminently threatening to cause death or
 11 serious physical injury to the person or another person;

12 (3) Except as provided under § 5-2-606(b)(2)(B), is not the
 13 initial aggressor and has not provoked the person against whom the deadly
 14 physical force is used;

15 (4) Is not committing a felony offense of possession of a
 16 firearm by certain persons, § 5-73-103, with the firearm used to employ the
 17 deadly physical force, unless the person is in or at the person's dwelling or
 18 in the curtilage surrounding the person's dwelling;

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

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

24 (c) As used in this section:

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

30 (2) "Domestic abuse" means:

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

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

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SECTION 3. Arkansas Code § 5-2-615 is amended to read as follows:

5-2-615. Use of physical force by a pregnant woman in defense of her unborn child.

(a) As used in this section:

(1) "Pregnant" means the female reproductive condition of having an unborn child in the female's body; and

(2) "Unborn child" means the offspring of human beings from conception until birth.

(b) A pregnant woman is justified in using physical force or deadly physical force against another person to protect her unborn child if, under the circumstances as the pregnant woman reasonably believes them to be, she would be justified under § 5-2-606 or § 5-2-607 in using physical force or deadly physical force to protect herself against the unlawful physical force or unlawful deadly physical force she reasonably believes to be threatening her unborn child.

(c) The justification for using physical force or deadly physical force against another person to protect a pregnant woman's unborn child is not available if+

~~(1) The use of the physical force or deadly physical force for protection was used by a person other than the pregnant woman; or~~

~~(2)(A) The use of the deadly physical force for protection would not be allowed under § 5-2-607(b).~~

~~(B) However, the pregnant woman is not obligated to retreat or surrender possession of property as described in § 5-2-607(b) unless the pregnant woman knows she can avoid the necessity of using deadly physical force and simultaneously ensure the complete safety of her unborn child.~~