

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1009

By: Matthews

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5
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2011,
8 Section 1289.25, which relates to physical or deadly
9 force against an intruder; modifying conditions; and
10 providing an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.25, is
13 amended to read as follows:

14 Section 1289.25.

15 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

16 A. The Legislature hereby recognizes that the citizens of the
17 State of Oklahoma have a right to expect absolute safety within
18 their own homes or places of business.

19 B. A person or an owner, manager or employee of a business is
20 presumed to have held a reasonable fear of imminent peril of death
21 or great bodily harm to himself or herself or another when using
22 defensive force that is intended or likely to cause death or great
23 bodily harm to another if:
24

1 1. The person against whom the defensive force was used was in
2 the process of unlawfully and forcefully entering, or had unlawfully
3 and forcibly entered, a dwelling, residence, occupied vehicle, or a
4 place of business, or if that person had removed or was attempting
5 to remove another against the will of that person from the dwelling,
6 residence, occupied vehicle, or place of business; and

7 2. The person who uses defensive force knew or had reason to
8 believe that an unlawful and forcible entry or unlawful and forcible
9 act was occurring or had occurred.

10 C. The presumption set forth in subsection B of this section
11 does not apply if:

12 1. The person against whom the defensive force is used has the
13 right to be in or is a lawful resident of the dwelling, residence,
14 or vehicle, such as an owner, lessee, or titleholder, and there is
15 not a protective order from domestic violence in effect or a written
16 pretrial supervision order of no contact against that person;

17 2. The person or persons sought to be removed are children or
18 grandchildren, or are otherwise in the lawful custody or under the
19 lawful guardianship of, the person against whom the defensive force
20 is used; or

21 3. The person who uses defensive force is engaged in an
22 unlawful activity or is using the dwelling, residence, occupied
23 vehicle, or place of business to further an unlawful activity.

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1 D. A person who is not engaged in an unlawful activity and who
2 is attacked, without provocation, in any other place where he or she
3 has a right to be ~~has no duty to retreat and has the right to stand~~
4 ~~his or her ground and meet~~ and is unable to safely retreat can meet
5 force with force, including deadly force, if he or she reasonably
6 believes it is necessary to do so to prevent death or great bodily
7 harm to himself or herself or another ~~or to prevent the commission~~
8 ~~of a forcible felony~~.

9 E. A person who unlawfully and by force enters or attempts to
10 enter the dwelling, residence, occupied vehicle of another person,
11 or a place of business is presumed to be doing so with the intent to
12 commit an unlawful act involving force or violence.

13 F. A person who uses force, as permitted pursuant to the
14 provisions of subsections B and D of this section, is justified in
15 using such force and is immune from criminal prosecution and civil
16 action for the use of such force. As used in this subsection, the
17 term "criminal prosecution" includes charging or prosecuting the
18 defendant.

19 G. A law enforcement agency may use standard procedures for
20 investigating the use of force, but the law enforcement agency may
21 not arrest the person for using force unless it determines that
22 there is probable cause that the force that was used was unlawful.

23 H. The court shall award reasonable attorney fees, court costs,
24 compensation for loss of income, and all expenses incurred by the

1 defendant in defense of any civil action brought by a plaintiff if
2 the court finds that the defendant is immune from prosecution as
3 provided in subsection F of this section.

4 I. The provisions of this section and the provisions of the
5 Oklahoma Self-Defense Act shall not be construed to require any
6 person using a pistol pursuant to the provisions of this section to
7 be licensed in any manner.

8 J. As used in this section:

9 1. "Dwelling" means a building or conveyance of any kind,
10 including any attached porch, whether the building or conveyance is
11 temporary or permanent, mobile or immobile, which has a roof over
12 it, including a tent, and is designed to be occupied by people;

13 2. "Residence" means a dwelling in which a person resides
14 either temporarily or permanently or is visiting as an invited
15 guest; and

16 3. "Vehicle" means a conveyance of any kind, whether or not
17 motorized, which is designed to transport people or property.

18 SECTION 2. This act shall become effective November 1, 2016.

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