

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 130

By: Bergstrom

AS INTRODUCED

An Act relating to use of force; amending 21 O.S. 2021, Section 1289.25, which relates to physical or deadly force against an intruder; modifying elements for lawful use of defensive force; providing certain exception; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.25, is amended to read as follows:

Section 1289.25.

PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

A. The Legislature hereby recognizes that the citizens of ~~the State of Oklahoma~~ this state have a right to expect absolute safety within their own homes, places of business or places of worship and have the right to establish policies regarding the possession of weapons on property pursuant to the provisions of Section 1290.22 of this title.

B. A person, regardless of official capacity or lack of official capacity, within a place of worship or a person, an owner,

1 manager or employee of a business is presumed to have held a
2 reasonable fear of imminent peril of death or great bodily harm to
3 himself or herself or another when using defensive force that is
4 intended or likely to cause death or great bodily harm to another
5 if:

6 1. a. The person against whom the defensive force was used
7 was in the process of unlawfully and forcefully
8 entering, or had unlawfully and forcibly entered, a
9 dwelling, residence, occupied vehicle, place of
10 business or place of worship, or if that person had
11 removed or was attempting to remove another against
12 the will of that person from the dwelling, residence,
13 occupied vehicle, place of business or place of
14 worship, or

15 b. The person who uses defensive force knew or had reason
16 to believe that an unlawful and forcible entry or
17 unlawful and forcible act was occurring or had
18 occurred; or

19 2. The person who uses defensive force knew or had a reasonable
20 belief that the person against whom the defensive force was used
21 entered or was attempting to enter into a dwelling, residence,
22 occupied vehicle, place of business or place of worship for the
23 purpose of committing a forcible felony, as defined in Section 733
24

1 of this title, and that the defensive force was necessary to prevent
2 the commission of the forcible felony.

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

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

10 2. The person or persons sought to be removed are children or
11 grandchildren, or are otherwise in the lawful custody or under the
12 lawful guardianship of, the person against whom the defensive force
13 is used; or

14 3. The person who uses defensive force is engaged in an
15 unlawful activity or is using the dwelling, residence, occupied
16 vehicle, place of business or place of worship to further an
17 unlawful activity.

18 D. A person ~~who is not engaged in an unlawful activity and~~ who
19 is attacked in any ~~other~~ place where he or she has a right to be has
20 no duty to retreat and has the right to stand his or her ground and
21 meet force with force, including deadly force, if he or she
22 reasonably believes it is necessary to do so to prevent death or
23 great bodily harm to himself or herself or another or to prevent the
24 commission of a forcible felony as defined by Section 733 of this

1 title. The protections of this subsection shall not apply to a
2 person who is attacked as he or she is in the commission of a
3 violent crime, as defined by Section 571 of Title 57 of the Oklahoma
4 Statutes.

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

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

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

21 H. The court shall award reasonable attorney fees, court costs,
22 compensation for loss of income, and all expenses incurred by the
23 defendant in defense of any civil action brought by a plaintiff if
24

1 the court finds that the defendant is immune from prosecution as
2 provided in subsection F of this section.

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

7 J. A person pointing a weapon at a perpetrator in self-defense
8 or in order to thwart, stop or deter a forcible felony or attempted
9 forcible felony shall not be deemed guilty of committing a criminal
10 act.

11 K. As used in this section:

12 1. "Defensive force" includes, but shall not be limited to,
13 pointing a weapon at a perpetrator in self-defense or in order to
14 thwart, stop or deter a forcible felony or attempted forcible
15 felony;

16 2. "Dwelling" means a building or conveyance of any kind,
17 including any attached porch, whether the building or conveyance is
18 temporary or permanent, mobile or immobile, which has a roof over
19 it, including a tent, and is designed to be occupied by people;

20 3. "Place of worship" means:

21 a. any permanent building, structure, facility or office
22 space owned, leased, rented or borrowed, on a full-
23 time basis, when used for worship services, activities
24 and business of the congregation, which may include,

1 but not be limited to, churches, temples, synagogues
2 and mosques, and

3 b. any permanent building, structure, facility or office
4 space owned, leased, rented or borrowed for use on a
5 temporary basis, when used for worship services,
6 activities and business of the congregation including,
7 but not limited to, churches, temples, synagogues and
8 mosques;

9 4. "Residence" means a dwelling in which a person resides
10 either temporarily or permanently or is visiting as an invited
11 guest; and

12 5. "Vehicle" means a conveyance of any kind, whether or not
13 motorized, which is designed to transport people or property.

14 SECTION 2. This act shall become effective November 1, 2023.

15
16 59-1-1123 JES 1/4/2023 11:29:59 AM
17
18
19
20
21
22
23
24
25