

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2626

By: West (Kevin) and Faught of
the House

and

Sykes of the Senate

8 An Act relating to firearms; amending 21 O.S. 2011,
9 Section 1289.25, as amended by Section 2, Chapter
10 266, O.S.L. 2017 (21 O.S. Supp. 2017, Section
11 1289.25), which relates to the Oklahoma Firearms Act
of 1971; stating burden of proof standard when
immunity claims are raised in criminal prosecutions;
and providing an effective date.

14 AMENDMENT NO. 1. Page 1, strike the title to read

15 "[Oklahoma Firearms Act of 1971 - burden of proof
16 standard - effective date]"

1 Passed the Senate the 26th day of April, 2018.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2018.

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8 _____
9 Presiding Officer of the House
10 of Representatives

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11 1289.25), which relates to the Oklahoma Firearms Act
of 1971; stating burden of proof standard when
immunity claims are raised in criminal prosecutions;
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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.25, as
16 amended by Section 2, Chapter 266, O.S.L. 2017 (21 O.S. Supp. 2017,
17 Section 1289.25), is amended to read as follows:

18 Section 1289.25

19 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

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

23 B. A person or an owner, manager or employee of a business is
24 presumed to have held a reasonable fear of imminent peril of death

1 or great bodily harm to himself or herself or another when using
2 defensive force that is intended or likely to cause death or great
3 bodily harm to another if:

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

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

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

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

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

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

4 D. A person who is not engaged in an unlawful activity and who
5 is attacked in any other place where he or she has a right to be has
6 no duty to retreat and has the right to stand his or her ground and
7 meet force with force, including deadly force, if he or she
8 reasonably believes it is necessary to do so to prevent death or
9 great bodily harm to himself or herself or another or to prevent the
10 commission of a forcible felony.

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

15 F. A person who uses defensive force, as permitted pursuant to
16 the provisions of subsections B and D of this section, is justified
17 in using such defensive force and is immune from criminal
18 prosecution and civil action for the use of such defensive force.
19 As used in this subsection, the term "criminal prosecution" includes
20 charging or prosecuting the defendant. If a prima facie claim of
21 immunity from criminal prosecution has been raised by a person
22 pursuant to this section, the State of Oklahoma shall be required to
23 prove beyond a reasonable doubt that such immunity is not
24 applicable.

1 G. A law enforcement agency may use standard procedures for
2 investigating the use of defensive force, but the law enforcement
3 agency may not arrest the person for using defensive force unless it
4 determines that there is probable cause that the defensive force
5 that was used was unlawful.

6 H. The court shall award reasonable attorney fees, court costs,
7 compensation for loss of income, and all expenses incurred by the
8 defendant in defense of any civil action brought by a plaintiff if
9 the court finds that the defendant is immune from prosecution as
10 provided in subsection F of this section.

11 I. The provisions of this section and the provisions of the
12 Oklahoma Self-Defense Act shall not be construed to require any
13 person using a weapon pursuant to the provisions of this section to
14 be licensed in any manner.

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

19 K. As used in this section:

20 1. "Defensive force" includes, but shall not be limited to,
21 pointing a weapon at a perpetrator in self-defense or in order to
22 thwart, stop or deter a forcible felony or attempted forcible
23 felony;

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

5 3. "Residence" means a dwelling in which a person resides
6 either temporarily or permanently or is visiting as an invited
7 guest; and

8 4. "Vehicle" means a conveyance of any kind, whether or not
9 motorized, which is designed to transport people or property.

10 SECTION 2. This act shall become effective November 1, 2018.

11 Passed the House of Representatives the 7th day of March, 2018.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2018.

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Presiding Officer of the Senate

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