

1 ENGROSSED HOUSE
2 BILL NO. 2155

By: West (Kevin) of the House

3 and

4 Bergstrom of the Senate

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6
7 An Act relating to firearms; amending 21 O.S. 2021,
8 Section 1289.25, which relates to the Oklahoma
9 Firearms Act of 1971; clarifying immunity provision
10 for persons asserting claims of self-defense;
11 authorizing defendants and the state to appeal
12 adverse rulings made by the court; and providing an
13 effective date.

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

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

17 Section 1289.25

18 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

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

1 B. A person, regardless of official capacity or lack of
2 official capacity, within a place of worship or a person, an owner,
3 manager or employee of a business is presumed to have held a
4 reasonable fear of imminent peril of death or great bodily harm to
5 himself or herself or another when using defensive force that is
6 intended or likely to cause death or great bodily harm to another
7 if:

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

17 ~~b.~~

18 2. The person who uses defensive force knew or had reason to
19 believe that an unlawful and forcible entry or unlawful and forcible
20 act was occurring or had occurred; or

21 ~~2.~~ 3. The person who uses defensive force knew or had a
22 reasonable belief that the person against whom the defensive force
23 was used entered or was attempting to enter into a dwelling,
24 residence, occupied vehicle, place of business or place of worship

1 for the purpose of committing a forcible felony, as defined in
2 Section 733 of this title, and that the defensive force was
3 necessary to prevent the commission of the forcible felony.

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

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

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

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

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

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

8 F. A person who uses defensive force, as permitted pursuant to
9 the provisions of subsections A, B, D and E of this section, is
10 justified in using such defensive force and is immune from and shall
11 not be subject to criminal prosecution and civil action for the use
12 of such defensive force. As used in this subsection, the term
13 "criminal prosecution" includes charging or prosecuting the
14 defendant.

15 1. A defendant who is denied immunity under the provisions of
16 this subsection may appeal the ruling to the Court of Criminal
17 Appeals pursuant to Section 1051 of Title 22 of the Oklahoma
18 Statutes.

19 2. If the district court grants immunity under the provisions
20 of this subsection, the state may appeal the ruling to the Court of
21 Criminal Appeals pursuant to Section 1053 of Title 22 of the
22 Oklahoma Statutes.

23 G. A law enforcement agency may use standard procedures for
24 investigating the use of defensive force, but the law enforcement

1 agency may not arrest the person for using defensive force unless it
2 determines that there is probable cause that the defensive force
3 that was used was unlawful.

4 H. The court shall award reasonable attorney fees, court costs,
5 compensation for loss of income, and all expenses incurred by the
6 defendant in defense of any civil action brought by a plaintiff if
7 the court finds that the defendant is immune from and not subject to
8 criminal prosecution as provided in subsection F of this section.

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

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

17 K. As used in this section:

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

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

3 3. "Place of worship" means:

4 a. any permanent building, structure, facility or office
5 space owned, leased, rented or borrowed, on a full-
6 time basis, when used for worship services, activities
7 and business of the congregation, which may include,
8 but not be limited to, churches, temples, synagogues
9 and mosques, and

10 b. any permanent building, structure, facility or office
11 space owned, leased, rented or borrowed for use on a
12 temporary basis, when used for worship services,
13 activities and business of the congregation ~~including~~
14 which may include, but is not limited to, churches,
15 temples, synagogues and mosques;

16 4. "Residence" means a dwelling in which a person resides
17 either temporarily or permanently or is visiting as an invited
18 guest; and

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

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

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1 Passed the House of Representatives the 21st day of March, 2023.

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4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2023.

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8 _____
9 Presiding Officer of the Senate