

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1025 Session of
2020

INTRODUCED BY SANTARSIERO, HAYWOOD, COLLETT, LEACH, HUGHES AND
KEARNEY, JANUARY 31, 2020

REFERRED TO JUDICIARY, JANUARY 31, 2020

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in general principles of
3 justification, further providing for use of force in self-
4 protection.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 505(b) (1), (2), (2.2), (2.3) and (2.4) of
8 Title 18 of the Pennsylvania Consolidated Statutes are amended
9 to read:

10 § 505. Use of force in self-protection.

11 * * *

12 (b) Limitations on justifying necessity for use of force.--

13 (1) The use of force is not justifiable under this
14 section:

15 (i) to resist an arrest which the actor knows is
16 being made by a peace officer, although the arrest is
17 unlawful; [or]

18 (ii) to resist force used by the occupier or
19 possessor of property or by another person on his behalf,

1 where the actor knows that the person using the force is
2 doing so under a claim of right to protect the property,
3 except that this limitation shall not apply if:

4 (A) the actor is a public officer acting in the
5 performance of his duties or a person lawfully
6 assisting him therein or a person making or assisting
7 in a lawful arrest;

8 (B) the actor has been unlawfully dispossessed
9 of the property and is making a reentry or recaption
10 justified by section 507 of this title (relating to
11 use of force for the protection of property); or

12 (C) the actor believes that such force is
13 necessary to protect himself against death or serious
14 bodily injury[.]; or

15 (iii) if the actor knows that he can avoid the
16 necessity of using force with complete safety by
17 deescalation or retreating.

18 (2) The use of deadly force is not justifiable under
19 this section unless the actor believes that such force is
20 necessary to protect himself against death, serious bodily
21 injury, kidnapping or sexual intercourse compelled by force
22 or threat; nor is it justifiable if:

23 (i) the actor, with the intent of causing death or
24 serious bodily injury, provoked the use of force against
25 himself in the same encounter; or

26 (ii) the actor knows that he can avoid the necessity
27 of using such force with complete safety by deescalation
28 or retreating[, except the actor is not obliged to
29 retreat from his dwelling or place of work, unless he was
30 the initial aggressor or is assailed in his place of work

1 by another person whose place of work the actor knows it
2 to be].

3 * * *

4 (2.2) The presumption set forth in paragraph (2.1) does
5 not apply if:

6 (i) the person against whom the force is used has
7 the right to be in or is a lawful resident of the
8 dwelling, residence or vehicle, such as an owner or
9 lessee;

10 (ii) the person sought to be removed is a child or
11 grandchild or is otherwise in the lawful custody or under
12 the lawful guardianship of the person against whom the
13 protective force is used;

14 (iii) the actor is engaged in a criminal activity or
15 is using the dwelling, residence or occupied vehicle to
16 further a criminal activity; [or]

17 (iv) the person against whom the force is used is a
18 peace officer acting in the performance of his official
19 duties and the actor using force knew or reasonably
20 should have known that the person was a peace officer[.];
21 or

22 (v) the actor knows that he can avoid the necessity
23 of using deadly force with complete safety by
24 deescalation or retreating.

25 [(2.3) An actor who is not engaged in a criminal
26 activity, who is not in illegal possession of a firearm and
27 who is attacked in any place where the actor would have a
28 duty to retreat under paragraph (2) (ii) has no duty to
29 retreat and has the right to stand his ground and use force,
30 including deadly force, if:

1 (i) the actor has a right to be in the place where
2 he was attacked;

3 (ii) the actor believes it is immediately necessary
4 to do so to protect himself against death, serious bodily
5 injury, kidnapping or sexual intercourse by force or
6 threat; and

7 (iii) the person against whom the force is used
8 displays or otherwise uses:

9 (A) a firearm or replica of a firearm as defined
10 in 42 Pa.C.S. § 9712 (relating to sentences for
11 offenses committed with firearms); or

12 (B) any other weapon readily or apparently
13 capable of lethal use.

14 (2.4) The exception to the duty to retreat set forth
15 under paragraph (2.3) does not apply if the person against
16 whom the force is used is a peace officer acting in the
17 performance of his official duties and the actor using force
18 knew or reasonably should have known that the person was a
19 peace officer.]

20 * * *

21 Section 2. This act shall take effect in 60 days.