

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas As Engrossed: H1/28/19 H2/6/19 H3/27/19 H3/28/19

92nd General Assembly

A Bill

Regular Session, 2019

HOUSE BILL 1059

By: Representative Pilkington

By: Senators G. Stubblefield, B. Ballinger, T. Garner

For An Act To Be Entitled

AN ACT CONCERNING THE USE OF PHYSICAL FORCE IN SELF-
DEFENSE OR IN THE DEFENSE OF OTHERS; AND FOR OTHER
PURPOSES.

Subtitle

CONCERNING THE USE OF PHYSICAL FORCE IN
SELF-DEFENSE OR IN THE DEFENSE OF OTHERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-2-606 is amended to read as follows:

5-2-606. Use of physical force in defense of a person.

(a)(1) A person is justified in using physical force upon another person to defend himself or herself or a third person from what the person reasonably believes to be the use or imminent use of unlawful physical force by that other person, and the person may use a degree of physical force that he or she reasonably believes to be necessary.

(2) However, the person may not use deadly physical force except as provided in § 5-2-607.

(b) A person is not justified in using physical force upon another person if:

(1) With purpose to cause physical injury or death to the other person, the person provokes the use of unlawful physical force by the other person;

(2)(A) The person is the initial aggressor.

(B) However, the initial aggressor's use of physical force



upon another person is justifiable if:

(i) The initial aggressor in good faith withdraws from the encounter and effectively communicates to the other person his or her purpose to withdraw from the encounter; and

(ii) The other person continues or threatens to continue the use of unlawful physical force; or

(3) The physical force involved is the product of a combat by agreement not authorized by law.

SECTION 2. Arkansas Code § 5-2-607 is amended to read as follows:

5-2-607. Use of deadly physical force in defense of a person.

(a) ~~A person is justified in using deadly physical force upon another person if the person~~ It is an affirmative defense to a prosecution for the use of deadly physical force upon another person that that the person who used the deadly physical force reasonably believes that the other person is:

(1) Committing or about to commit a felony involving force or violence;

(2) Using or about to use unlawful deadly physical force; or

(3) Imminently endangering the person's life or imminently about to victimize the person as described in § 9-15-103 from the continuation of a pattern of domestic abuse.

(b) A person may not use deadly physical force in self-defense if the person ~~knows that he or she~~ can avoid with total and complete safety the necessity of using deadly physical force+

~~(1)(A) By retreating+~~

~~(B) However, a person is not required to retreat if the person is+~~

~~(i) Unable to retreat with complete safety;~~

~~(ii) In the person's dwelling or on the curtilage surrounding the person's dwelling and was not the original aggressor; or~~

~~(iii) A law enforcement officer or a person assisting at the direction of a law enforcement officer; or~~

~~(2) With complete safety by surrendering possession of property to a person claiming a lawful right to possession of the property.~~

(c) It is an affirmative defense to a prosecution for the use of deadly physical force upon another person that the person who used the deadly

physical force:

(1) Reasonably believed his or her life was in imminent danger;

and

(2) Was lawfully present at the location where the deadly physical force was used;

(3) Did not provoke the person upon whom the deadly physical force was used; and

(4) Was not engaged in criminal activity that gave rise to the need for the use of deadly physical force at the time the deadly physical force was used.

~~(e)(d)~~ As used in this section:

~~(1) "Curtilage" means the land adjoining a dwelling that is convenient for residential purposes and habitually used for residential purposes, but not necessarily enclosed, and includes an outbuilding that is directly and intimately connected with the dwelling and in close proximity to the dwelling; and~~

~~(2) "Domestic, "domestic abuse" means:~~

~~(A)(1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or~~

~~(B)(2) Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state.~~

/s/Pilkington