

EHB 2615

THE STATE SENATE
Tuesday, April 11, 2006

ENGROSSED

House Bill No. 2615

As Amended

ENGROSSED HOUSE BILL NO. 2615 - By: CALVEY, ELLIS, BILLY, BLACKWELL,
DUNCAN, CASE, COOKSEY, INGMIRE, NANCE, PERRY, ADKINS, BRADDOCK,
DANK, JOHNSON, JONES, LIOTTA, MARTIN, MILLER (Doug), MORGAN (Fred),
RICHARDSON, SMALIGO, SULLIVAN, TERRILL, TIBBS, TREBILCOCK, WORTHEN,
DePUE, ROUSSELOT and SMITHSON of the House and COATES, CRUTCHFIELD
and SHURDEN of the Senate.

**[firearms - Stand Your Ground Law - noncodification -
effective date]**

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

Sections 1 and 2 of this act shall be known and may be cited as
the "Stand Your Ground Law".

SECTION 2. AMENDATORY 21 O.S. 2001, 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 have a right to expect absolute safety within
their own homes.

1 ~~B. Any occupant of a dwelling is justified in using any degree~~
2 ~~of physical force, including but not limited to deadly force,~~
3 ~~against~~ A person is presumed to have held a reasonable fear of
4 imminent peril of death or great bodily harm to himself or herself
5 or another person who has made an unlawful entry into that dwelling,
6 ~~and when the occupant has a reasonable belief that such other person~~
7 ~~might use any physical~~ when using defensive force, no matter how
8 ~~slight, against any occupant of the dwelling that is intended or~~
9 likely to cause death or great bodily harm to another if:

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

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

19 ~~C. Any occupant of a dwelling using physical~~ The presumption
20 set forth in subsection B of this section does not apply if:

21 1. The person against whom the defensive force is used has the
22 right to be in or is a lawful resident of the dwelling, residence,
23 or vehicle, such as an owner, lessee, or titleholder, and there is

1 not a protective order from domestic violence in effect or a written
2 pretrial supervision order of no contact against that person;

3 2. The person or persons sought to be removed are children or
4 grandchildren, or are otherwise in the lawful custody or under the
5 lawful guardianship of, the person against whom the defensive force
6 is used; or

7 3. The person who uses defensive force is engaged in an
8 unlawful activity or is using the dwelling, residence, or occupied
9 vehicle to further an unlawful activity.

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

17 E. A person who unlawfully and by force enters or attempts to
18 enter the dwelling, residence, or occupied vehicle of another person
19 is presumed to be doing so with the intent to commit an unlawful act
20 involving force or violence.

21 F. A person who uses force, including but not limited to deadly
22 force, as permitted pursuant to the provisions of subsection
23 subsections B and D of this section, shall have an affirmative

1 ~~defense in any~~ is justified in using such force and is immune from
2 ~~criminal prosecution for an offense arising from the reasonable and~~
3 civil action for the use of such force ~~and shall be immune from any~~
4 ~~civil liability for injuries or death resulting from the reasonable~~
5 ~~use of such force.~~ As used in this subsection, the term "criminal
6 prosecution" includes arresting, detaining in custody, and charging
7 or prosecuting the defendant.

8 ~~D.~~ G. A law enforcement agency may use standard procedures for
9 investigating the use of force, but the law enforcement agency may
10 not arrest the person for using force unless it determines that
11 there is probable cause that the force that was used was unlawful.

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

17 I. The provisions of this section and the provisions of the
18 Oklahoma Self-Defense Act, Sections ~~4~~ 1290.1 through ~~25~~ 1290.26 of
19 this ~~act~~ title, shall not be construed to require any person using a
20 pistol pursuant to the provisions of this section to be licensed in
21 any manner.

22 J. As used in this section:

1 1. "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 2. "Residence" means a dwelling in which a person resides
6 either temporarily or permanently or is visiting as an invited
7 guest; and

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

10 SECTION 3. This act shall become effective November 1, 2006.

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-5-06 - DO
12 PASS, As Amended and Coauthored.