

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2193

By: Marlatt

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Section 1289.25, as amended by Section  
9 2, Chapter 145, O.S.L. 2006 (21 O.S. Supp. 2009,  
10 Section 1289.25), which relates to physical or deadly  
11 force against intruders; clarifying language; and  
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1289.25, as  
15 amended by Section 2, Chapter 145, O.S.L. 2006 (21 O.S. Supp. 2009,  
16 Section 1289.25), is 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~~ this state have a right to expect absolute safety  
21 within their own homes.

22 B. A person is presumed to have held a reasonable fear of  
23 imminent peril of death or great bodily harm to himself or herself  
24 or another when using defensive force that is intended or likely to  
cause death or great bodily harm to another if:

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

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

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

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

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

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

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

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

12 F. A person who uses force, as permitted pursuant to the  
13 provisions of subsections B and D of this section, is justified in  
14 using such force and is immune from criminal prosecution and civil  
15 action for the use of such force. As used in this subsection, the  
16 term "criminal prosecution" includes charging or prosecuting the  
17 defendant.

18 G. A law enforcement agency may use standard procedures for  
19 investigating the use of force, but the law enforcement agency may  
20 not arrest the person for using force unless it determines that  
21 there is probable cause that the force that was used was unlawful.

22 H. The court shall award reasonable attorney fees, court costs,  
23 compensation for loss of income, and all expenses incurred by the  
24 defendant in defense of any civil action brought by a plaintiff if

1 the court finds that the defendant is immune from prosecution as  
2 provided in subsection F of this section.

3 I. The provisions of this section and the provisions of the  
4 Oklahoma Self-Defense Act, Sections 1290.1 through 1290.26 of this  
5 title, shall not be construed to require any person using a pistol  
6 pursuant to the provisions of this section to be licensed in any  
7 manner.

8 J. As used in this section:

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

13 2. "Residence" means a dwelling in which a person resides  
14 either temporarily or permanently or is visiting as an invited  
15 guest; and

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

18 SECTION 2. This act shall become effective November 1, 2010.

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