

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1439

6 By: Vaughan

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2001, Section 1289.25, as amended by Section
10 2, Chapter 145, O.S.L. 2006 (21 O.S. Supp. 2010,
11 Section 1289.25), which relates to the Oklahoma
12 Firearms Act of 1971; expanding right to use deadly
13 force; and providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1289.25, as
16 amended by Section 2, Chapter 145, O.S.L. 2006 (21 O.S. Supp. 2010,
17 Section 1289.25), is amended to read as follows:

18 Section 1289.25

19 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

20 A. The Legislature hereby recognizes that the citizens of the
21 State of Oklahoma have a right to expect absolute safety within
22 their own homes or places of business.

23 B. A person or an owner, manager or employee of a business is
24 presumed to have held a reasonable fear of imminent peril of death

1 or great bodily harm to himself or herself or another when using
2 defensive force that is intended or likely to cause death or great
3 bodily harm to another if:

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

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

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

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

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

24

1 3. The person who uses defensive force is engaged in an
2 unlawful activity or is using the dwelling, residence, ~~or~~ occupied
3 vehicle, or place of business to further an unlawful activity.

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

11 E. A person who unlawfully and by force enters or attempts to
12 enter the dwelling, residence, ~~or~~ occupied vehicle of another
13 person, or a place of business is presumed to be doing so with the
14 intent to commit an unlawful act involving force or violence.

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

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

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

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

11 J. As used in this section:

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

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

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

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SECTION 2. This act shall become effective November 1, 2011.

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