

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1946

By: Shortey

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2011, Section 1289.15, which relates to  
9 physical or deadly force against an intruder; adding  
10 type of unlawful entry or act; and providing an  
11 effective date.

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

13 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.25, is  
14 amended to read as follows:

15 Section 1289.25.

16 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

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

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

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

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

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

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

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

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1           3. The person who uses defensive force is engaged in an  
2 unlawful activity or is using the dwelling, residence, 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, deceptively ~~and~~ or by force enters  
12 or attempts to enter the dwelling, residence, occupied vehicle of  
13 another person, or a place of business is presumed to be doing so  
14 with the intent to commit an unlawful act involving force or  
15 violence.

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

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

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

8 I. The provisions of this section and the provisions of the  
9 Oklahoma Self-Defense Act shall not be construed to require any  
10 person using a pistol pursuant to the provisions of this section to  
11 be licensed in any manner.

12 J. As used in this section:

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

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

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

22 SECTION 2. This act shall become effective November 1, 2012.

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