

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2626

By: West (Kevin)

7  
8  
9                               COMMITTEE SUBSTITUTE

10           An Act relating to firearms; amending 21 O.S. 2011,  
11           Section 1289.25, as amended by Section 2, Chapter  
12           266, O.S.L. 2017 (21 O.S. Supp. 2017, Section  
13           1289.25), which relates to the Oklahoma Firearms Act  
14           of 1971; stating burden of proof standard when  
15           immunity claims are raised in criminal prosecutions;  
16           and providing an effective date.

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

18           SECTION 1.           AMENDATORY           21 O.S. 2011, Section 1289.25, as  
19           amended by Section 2, Chapter 266, O.S.L. 2017 (21 O.S. Supp. 2017,  
20           Section 1289.25), is amended to read as follows:

21           Section 1289.25

22                               PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

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

1       B. A person or an owner, manager or employee of a business is  
2 presumed to have held a reasonable fear of imminent peril of death  
3 or great bodily harm to himself or herself or another when using  
4 defensive force that is intended or likely to cause death or great  
5 bodily harm to another if:

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

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

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

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

22       2. The person or persons sought to be removed are children or  
23 grandchildren, or are otherwise in the lawful custody or under the  
24

1 lawful guardianship of, the person against whom the defensive force  
2 is used; or

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

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

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

17 F. A person who uses defensive force, as permitted pursuant to  
18 the provisions of subsections B and D of this section, is justified  
19 in using such defensive force and is immune from criminal  
20 prosecution and civil action for the use of such defensive force.  
21 As used in this subsection, the term "criminal prosecution" includes  
22 charging or prosecuting the defendant. If a prima facie claim of  
23 immunity from criminal prosecution has been raised by a person  
24 pursuant to this section, the State of Oklahoma shall be required to

1 prove beyond a reasonable doubt that such immunity is not  
2 applicable.

3 G. A law enforcement agency may use standard procedures for  
4 investigating the use of defensive force, but the law enforcement  
5 agency may not arrest the person for using defensive force unless it  
6 determines that there is probable cause that the defensive force  
7 that was used was unlawful.

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

13 I. The provisions of this section and the provisions of the  
14 Oklahoma Self-Defense Act shall not be construed to require any  
15 person using a weapon pursuant to the provisions of this section to  
16 be licensed in any manner.

17 J. A person pointing a weapon at a perpetrator in self-defense  
18 or in order to thwart, stop or deter a forcible felony or attempted  
19 forcible felony shall not be deemed guilty of committing a criminal  
20 act.

21 K. As used in this section:

22 1. "Defensive force" includes, but shall not be limited to,  
23 pointing a weapon at a perpetrator in self-defense or in order to  
24

1 thwart, stop or deter a forcible felony or attempted forcible  
2 felony;

3 2. "Dwelling" means a building or conveyance of any kind,  
4 including any attached porch, whether the building or conveyance is  
5 temporary or permanent, mobile or immobile, which has a roof over  
6 it, including a tent, and is designed to be occupied by people;

7 3. "Residence" means a dwelling in which a person resides  
8 either temporarily or permanently or is visiting as an invited  
9 guest; and

10 4. "Vehicle" means a conveyance of any kind, whether or not  
11 motorized, which is designed to transport people or property.

12 SECTION 2. This act shall become effective November 1, 2018.

13  
14 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/26/2018 - DO PASS,  
15 As Amended.  
16  
17  
18  
19  
20  
21  
22  
23  
24