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February 15, 2018

AS AMENDED

SENATE BILL NO. 957

By: Bergstrom of the Senate

and

West (Josh) of the House

[firearms - physical or deadly force - inclusions -
effective date]

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.25, as amended by Section 2, Chapter 266, O.S.L. 2017 (21 O.S. Supp. 2017, 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, places of worship or places of business.

B. A person or an owner, manager or employee of a place of worship or business is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself 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, occupied vehicle, ~~or~~ a
4 place of worship or place of business, or if that person had removed
5 or was attempting to remove another against the will of that person
6 from the dwelling, residence, occupied vehicle, ~~or~~ place of worship
7 or place of business; and

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

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

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

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

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

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

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

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

21 G. A law enforcement agency may use standard procedures for
22 investigating the use of defensive force, but the law enforcement
23 agency may not arrest the person for using defensive force unless it
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1 determines that there is probable cause that the defensive force
2 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 weapon pursuant to the provisions of this section to
11 be licensed in any manner.

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

16 K. As used in this section:

17 1. "Defensive force" includes, but shall not be limited to,
18 pointing a weapon at a perpetrator in self-defense or in order to
19 thwart, stop or deter a forcible felony or attempted forcible
20 felony;

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

1 3. "Place of worship" means any building, structure or office
2 space owned, leased, rented or borrowed while being used for worship
3 services and religious activities;

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

7 ~~4.~~ 5. "Vehicle" means a conveyance of any kind, whether or not
8 motorized, which is designed to transport people or property.

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

10 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
11 February 15, 2018 - DO PASS AS AMENDED
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