

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2632

By: Babinec

AS INTRODUCED

An Act relating to firearms; amending 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), which relates to the use of deadly force; expanding right to use deadly force at certain places; defining term; and providing an 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 ~~or~~, places of business or places of worship.

B. A person or an owner, manager or employee of a 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

1 defensive force that is intended or likely to cause death or great
2 bodily harm to another if:

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

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

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

23 G. A law enforcement agency may use standard procedures for
24 investigating the use of defensive force, but the law enforcement

1 agency may not arrest the person for using defensive force unless it
2 determines that there is probable cause that the defensive force
3 that was used was unlawful.

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

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

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

17 K. As used in this section:

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

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

3 3. "Place of worship" means any building, structure or office
4 space owned, leased, rented or borrowed and used for worship
5 services and religious activities, but such place is not limited to
6 worship services and religious activities;

7 4. "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. 5. "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.

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