

1 State of Arkansas *As Engrossed: H1/28/19 H2/6/19 H3/27/19 H3/28/19*

2 92nd General Assembly

A Bill

3 Regular Session, 2019

HOUSE BILL 1059

4

5 By: Representative Pilkington

6 *By: Senators G. Stubblefield, B. Ballinger, T. Garner*

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For An Act To Be Entitled

9 AN ACT CONCERNING THE USE OF PHYSICAL FORCE IN SELF-
10 DEFENSE OR IN THE DEFENSE OF OTHERS; AND FOR OTHER
11 PURPOSES.

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Subtitle

15 CONCERNING THE USE OF PHYSICAL FORCE IN
16 SELF-DEFENSE OR IN THE DEFENSE OF OTHERS.

17

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 *SECTION 1. Arkansas Code § 5-2-606 is amended to read as follows:*

22 *5-2-606. Use of physical force in defense of a person.*

23 *(a)(1) A person is justified in using physical force upon another*
24 *person to defend himself or herself or a third person from what the person*
25 *reasonably believes to be the use or imminent use of unlawful physical force*
26 *by that other person, and the person may use a degree of physical force that*
27 *he or she reasonably believes to be necessary.*

28 *(2) However, the person may not use deadly physical force except*
29 *as provided in § 5-2-607.*

30 *(b) A person is not justified in using physical force upon another*
31 *person if:*

32 *(1) With purpose to cause physical injury or death to the other*
33 *person, the person provokes the use of unlawful physical force by the other*
34 *person;*

35 *(2)(A) The person is the initial aggressor.*

36 *(B) However, the initial aggressor's use of physical force*



1 upon another person is justifiable if:

2 (i) The initial aggressor in good faith withdraws
3 from the encounter and effectively communicates to the other person his or
4 her purpose to withdraw from the encounter; and

5 (ii) The other person continues or threatens to
6 continue the use of unlawful physical force; or

7 (3) The physical force involved is the product of a combat by
8 agreement not authorized by law.

9

10 SECTION 2. Arkansas Code § 5-2-607 is amended to read as follows:

11 5-2-607. Use of deadly physical force in defense of a person.

12 (a) ~~A person is justified in using deadly physical force upon another~~
13 ~~person if the person~~ It is an affirmative defense to a prosecution for the
14 use of deadly physical force upon another person that that the person who
15 used the deadly physical force reasonably believes that the other person is:

16 (1) Committing or about to commit a felony involving force or
17 violence;

18 (2) Using or about to use unlawful deadly physical force; or

19 (3) Imminently endangering the person's life or imminently about
20 to victimize the person as described in § 9-15-103 from the continuation of a
21 pattern of domestic abuse.

22 (b) A person may not use deadly physical force in self-defense if the
23 person ~~knows that he or she~~ can avoid with total and complete safety the
24 necessity of using deadly physical force+

25 ~~(1)(A) By retreating+~~

26 ~~(B) However, a person is not required to retreat if the~~
27 ~~person is+~~

28 ~~(i) Unable to retreat with complete safety;~~

29 ~~(ii) In the person's dwelling or on the curtilage~~
30 ~~surrounding the person's dwelling and was not the original aggressor; or~~

31 ~~(iii) A law enforcement officer or a person~~
32 ~~assisting at the direction of a law enforcement officer; or~~

33 ~~(2) With complete safety by surrendering possession of property~~
34 ~~to a person claiming a lawful right to possession of the property.~~

35 (c) It is an affirmative defense to a prosecution for the use of
36 deadly physical force upon another person that the person who used the deadly

1 physical force:

2 (1) Reasonably believed his or her life was in imminent danger;

3 and

4 (2) Was lawfully present at the location where the deadly
5 physical force was used;

6 (3) Did not provoke the person upon whom the deadly physical
7 force was used; and

8 (4) Was not engaged in criminal activity that gave rise to the
9 need for the use of deadly physical force at the time the deadly physical
10 force was used.

11 ~~(e)(d)~~ As used in this section:

12 ~~(1) "Curtilage" means the land adjoining a dwelling that is~~
13 ~~convenient for residential purposes and habitually used for residential~~
14 ~~purposes, but not necessarily enclosed, and includes an outbuilding that is~~
15 ~~directly and intimately connected with the dwelling and in close proximity to~~
16 ~~the dwelling; and~~

17 ~~(2) "Domestic, "domestic abuse" means:~~

18 ~~(A)(1) Physical harm, bodily injury, assault, or the infliction~~
19 ~~of fear of imminent physical harm, bodily injury, or assault between family~~
20 ~~or household members; or~~

21 ~~(B)(2) Any sexual conduct between family or household members,~~
22 ~~whether minors or adults, that constitutes a crime under the laws of this~~
23 ~~state.~~

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25 /s/Pilkington
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