

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2155

By: West (Kevin)

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to firearms; amending 21 O.S. 2021,
11 Section 1289.25, which relates to the Oklahoma
12 Firearms Act of 1971; clarifying immunity provision
13 for persons asserting claims of self-defense;
14 authorizing defendants and the state to appeal
15 adverse rulings made by the court; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.25, is
19 amended to read as follows:

20 Section 1289.25

21 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

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

1 the right to establish policies regarding the possession of weapons
2 on property pursuant to the provisions of Section 1290.22 of this
3 title.

4 B. A person, regardless of official capacity or lack of
5 official capacity, within a place of worship or a person, an owner,
6 manager or employee of a business is presumed to have held a
7 reasonable fear of imminent peril of death or great bodily harm to
8 himself or herself or another when using defensive force that is
9 intended or likely to cause death or great bodily harm to another
10 if:

11 1. ~~a.~~ The person against whom the defensive force was used
12 was in the process of unlawfully and forcefully
13 entering, or had unlawfully and forcibly entered, a
14 dwelling, residence, occupied vehicle, place of
15 business or place of worship, or if that person had
16 removed or was attempting to remove another against
17 the will of that person from the dwelling, residence,
18 occupied vehicle, place of business or place of
19 worship.

20 ~~b.~~

21 2. The person who uses defensive force knew or had reason to
22 believe that an unlawful and forcible entry or unlawful and forcible
23 act was occurring or had occurred; or

24

1 ~~2.~~ 3. The person who uses defensive force knew or had a
2 reasonable belief that the person against whom the defensive force
3 was used entered or was attempting to enter into a dwelling,
4 residence, occupied vehicle, place of business or place of worship
5 for the purpose of committing a forcible felony, as defined in
6 Section 733 of this title, and that the defensive force was
7 necessary to prevent the commission of the forcible felony.

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

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

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

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

23 D. A person who is not engaged in an unlawful activity and who
24 is attacked in any other place where he or she has a right to be has

1 no duty to retreat and has the right to stand his or her ground and
2 meet force with force, including deadly force, if he or she
3 reasonably believes it is necessary to do so to prevent death or
4 great bodily harm to himself or herself or another or to prevent the
5 commission of a forcible felony.

6 E. A person who unlawfully and by force enters or attempts to
7 enter the dwelling, residence, occupied vehicle of another person,
8 place of business or place of worship is presumed to be doing so
9 with the intent to commit an unlawful act involving force or
10 violence.

11 F. A person who uses defensive force, as permitted pursuant to
12 the provisions of subsections A, B, D and E of this section, is
13 justified in using such defensive force and is immune from and shall
14 not be subject to criminal prosecution and civil action for the use
15 of such defensive force. As used in this subsection, the term
16 "criminal prosecution" includes charging or prosecuting the
17 defendant.

18 1. A defendant who is denied immunity under the provisions of
19 this subsection may appeal the ruling to the Court of Criminal
20 Appeals pursuant to Section 1051 of Title 22 of the Oklahoma
21 Statutes.

22 2. If the district court grants immunity under the provisions
23 of this subsection, the state may appeal the ruling to the Court of
24

1 Criminal Appeals pursuant to Section 1053 of Title 22 of the
2 Oklahoma Statutes.

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 and not subject to
12 criminal prosecution as 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. "Place of worship" means:

8 a. any permanent building, structure, facility or office
9 space owned, leased, rented or borrowed, on a full-
10 time basis, when used for worship services, activities
11 and business of the congregation, which may include,
12 but not be limited to, churches, temples, synagogues
13 and mosques, and

14 b. any permanent building, structure, facility or office
15 space owned, leased, rented or borrowed for use on a
16 temporary basis, when used for worship services,
17 activities and business of the congregation ~~including~~
18 which may include, but is not limited to, churches,
19 temples, synagogues and mosques;

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

23 5. "Vehicle" means a conveyance of any kind, whether or not
24 motorized, which is designed to transport people or property.

1 SECTION 2. This act shall become effective November 1, 2023.

2
3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
4 03/01/2023 - DO PASS, As Amended.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24