

1 **SENATE FLOOR VERSION**

2 April 10, 2018

3 ENGROSSED HOUSE
4 BILL NO. 2626

By: West (Kevin) and Faught of
the House

5 and

6 Sykes of the Senate

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8
9 An Act relating to firearms; amending 21 O.S. 2011,
10 Section 1289.25, as amended by Section 2, Chapter
11 266, O.S.L. 2017 (21 O.S. Supp. 2017, Section
12 1289.25), which relates to the Oklahoma Firearms Act
of 1971; stating burden of proof standard when
immunity claims are raised in criminal prosecutions;
and providing an effective date.

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

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

19 Section 1289.25

20 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

21 A. The Legislature hereby recognizes that the citizens of the
22 State of Oklahoma have a right to expect absolute safety within
23 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
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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
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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 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
14 April 10, 2018 - DO PASS

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