

INTERIM STUDY PROPOSAL 2019-063

State of Arkansas *As Engrossed: S4/1/19 S4/2/19 S4/3/19*

92nd General Assembly

A Bill

Regular Session, 2019

SENATE BILL 484

By: Senators B. Ballinger, G. Stubblefield, *T. Garner, B. Johnson, Flippo, Hester*

By: Representatives Pilkington, *Richmond, Gonzales, Cavanaugh, McCollum, Breaux, G. Hodges, Bentley*

Filed with: Senate Committee on Judiciary
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT CONCERNING THE DEFENSE OF A PERSON WITH THE
USE OF *PHYSICAL FORCE OR DEADLY FORCE*; AND FOR OTHER
PURPOSES.

Subtitle

*CONCERNING THE DEFENSE OF A PERSON WITH
THE USE OF PHYSICAL FORCE OR DEADLY
FORCE.*

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

*SECTION 1. Arkansas Code § 5-2-606 is amended to read as follows:
5-2-606. Use of physical force in defense of a person.*

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

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

*(3) A person who uses or threatens to use physical force in
accordance with this section does not have a duty to retreat before using or
threatening to use the physical force.*

1 (b) A person is not justified in using physical force upon another
2 person if:

3 (1) With purpose to cause physical injury or death to the other
4 person, the person provokes the use of unlawful physical force by the other
5 person;

6 (2)(A) The person is the initial aggressor.

7 (B) However, the initial aggressor's use of physical force
8 upon another person is justifiable if:

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

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

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

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

18 5-2-607. Use of deadly physical force in defense of a person.

19 (a) A person is justified in using deadly physical force upon another
20 person if the person reasonably believes that the other person is:

21 (1) Committing or about to commit a felony involving force or
22 violence;

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

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

27 ~~(b) A person may not use deadly physical force in self defense if the~~
28 ~~person knows that he or she can avoid the necessity of using deadly physical~~
29 ~~force;~~

30 ~~(1)(A) By retreating.~~

31 ~~(B) However, a person is not required to retreat if the~~
32 ~~person is:~~

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

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

36 ~~(iii) A law enforcement officer or a person~~

~~1 assisting at the direction of a law enforcement officer; or~~

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

4 (b) A person is not required to retreat before using deadly physical
5 force if the person:

6 (1) Is lawfully present at the location where deadly physical
7 force is used;

8 (2) Has a reasonable belief that there is an imminent danger of
9 death or serious physical injury;

10 (3) Has not provoked the person against whom the deadly physical
11 force is used;

12 (4) Is not in unlawful possession of a weapon used to employ the
13 deadly physical force;

14 (5) Is not engaged in criminal activity that gives rise to the
15 need for the use of deadly physical force at the time the deadly physical
16 force is used; and

17 (6) Is not engaged in any activity in furtherance of a criminal
18 gang, organization, or enterprise as defined in § 5-74-103.

19 (c) As used in this section+,

20 ~~(1) "Curtilage" means the land adjoining a dwelling that is~~
21 ~~convenient for residential purposes and habitually used for residential~~
22 ~~purposes, but not necessarily enclosed, and includes an outbuilding that is~~
23 ~~directly and intimately connected with the dwelling and in close proximity to~~
24 ~~the dwelling; and~~

25 ~~(2) "Domestic "domestic abuse" means:~~

26 ~~(A)(1) Physical harm, bodily injury, assault, or the infliction~~
27 ~~of fear of imminent physical harm, bodily injury, or assault between family~~
28 ~~or household members; or~~

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

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34 /s/B. Ballinger

1 Referred requested by the Arkansas Senate

2 Prepared by: BPG/VJF

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