

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H1/18/07

A Bill

HOUSE BILL 1027

5 By: Representatives Burris, R. Green, Wyatt, Stewart, Medley, Ragland, Reep, J. Roebuck, Sample,
6 Walters
7
8

For An Act To Be Entitled

10 AN ACT TO CREATE A PRESUMPTION RELATING TO THE
11 USE OF DEADLY PHYSICAL FORCE; TO AUTHORIZE THE
12 USE OF DEADLY PHYSICAL FORCE IN DEFENSE OF A
13 PERSON UNDER CERTAIN CIRCUMSTANCES; TO CREATE
14 CIVIL IMMUNITY AND CRIMINAL PROSECUTION IMMUNITY
15 FOR THE USE OF DEADLY PHYSICAL FORCE UNDER
16 CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.
17

Subtitle

18 TO CREATE A PRESUMPTION RELATING TO THE
19 USE OF DEADLY PHYSICAL FORCE; TO
20 AUTHORIZE THE USE OF DEADLY PHYSICAL
21 FORCE UNDER CERTAIN CIRCUMSTANCES; AND
22 TO CREATE CIVIL AND CRIMINAL IMMUNITY
23 UNDER CERTAIN CIRCUMSTANCES.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. This act shall be known as the "Stand Your Ground Law".
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31 SECTION 2. Arkansas Code § 5-2-607 is amended to read as follows:

32 5-2-607. Use of deadly physical force in defense of a person.

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

35 (1) Committing or about to commit a felony involving force or
36 violence;



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

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

5 (B) As used in this section, "domestic abuse" means the
6 same as defined in § 9-15-103.

7 (b) ~~A person may not use deadly physical force in self-defense if he~~
8 ~~or she knows that he or she can avoid the necessity of using deadly physical~~
9 ~~force with complete safety.~~

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

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

13 ~~(i) In the person's dwelling and was not the~~
14 ~~original aggressor; or~~

15 ~~(ii) A law enforcement officer or a person assisting~~
16 ~~at the direction of a law enforcement officer; or~~

17 ~~(2) By surrendering possession of property to a person claiming~~
18 ~~a lawful right to possession of the property. When a person uses deadly~~
19 ~~physical force upon another person, the person is presumed to have reasonably~~
20 ~~believed the other person was engaging in conduct described in subdivisions~~
21 ~~(a)(1), (a)(2), or (a)(3) of this section if:~~

22 ~~(1) The person against whom the deadly physical force was used:~~

23 ~~(A) Was in the process of unlawfully and forcefully~~
24 ~~entering, or had unlawfully and forcibly entered, a dwelling or occupiable~~
25 ~~structure; or~~

26 ~~(B) Had removed or was attempting to remove another person~~
27 ~~against that person's will from a dwelling or occupiable structure; and~~

28 ~~(2) The person who used deadly physical force knew or reasonably~~
29 ~~believed that the person against whom deadly physical force was used was~~
30 ~~engaging or had engaged in conduct described in subdivision (b)(1) of this~~
31 ~~section.~~

32 ~~(c) The presumption set forth in subsection (b) of this section does~~
33 ~~not apply if:~~

34 ~~(1) The person against whom the deadly physical force is used~~
35 ~~has the right to be in or is a lawful resident of the dwelling or occupiable~~
36 ~~structure, such as an owner, lessor, lessee, or titleholder, and there is not~~

1 an order of protection from domestic abuse in effect or a written pretrial
2 supervision order of no contact against that person;

3 (2) The person removed or sought to be removed is a child,
4 grandchild, or other person that is in the lawful custody or under the lawful
5 guardianship of the person against whom the deadly physical force is used;

6 (3) The person who used deadly physical force is engaged in an
7 unlawful activity or is using the dwelling or occupiable structure to further
8 an unlawful activity;

9 (4) The person against whom the deadly physical force is used is
10 a law enforcement officer who:

11 (A) Enters or attempts to enter a dwelling or occupiable
12 structure in the performance of his or her official duties; and

13 (B) Identifies himself or herself in accordance with
14 applicable law;

15 (5) The person who used deadly physical force knew or reasonably
16 should have known that the person entering or attempting to enter a dwelling
17 or occupiable structure was a law enforcement officer; or

18 (6) The person who used deadly physical force knew or reasonably
19 should have known that the use of deadly physical force was not reasonably
20 necessary to prevent conduct described in subdivisions (a)(1), (a)(2), or
21 (a)(3) of this section.

22 (d) A person who is not engaged in an unlawful activity and who is
23 attacked with unlawful deadly physical force in any place where he or she has
24 a right to be has no duty to retreat and has the right to stand his or her
25 ground and meet deadly physical force with deadly physical force pursuant to
26 subsection (a) of this section.

27 (e) A person who unlawfully and by force enters or attempts to enter
28 the dwelling or occupiable structure of another person is presumed to be
29 doing so with the purpose to engage in conduct described in subdivisions
30 (a)(1), (a)(2), or (a)(3) of this section.

31 (f) A person who unlawfully and by force enters or attempts to enter a
32 dwelling or occupiable structure in violation of an order of protection,
33 restraining order, or condition of bond is presumed to be doing so with the
34 purpose to engage in conduct described in subdivisions (a)(1), (a)(2), or
35 (a)(3) of this section regardless of whether the person is a resident, owner,
36 lessor, lessee, or titleholder of the dwelling or occupiable structure.

