

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 H2/14/07

# A Bill

HOUSE BILL 1027

5 By: Representatives Burris, R. Green, Wyatt, Stewart, Medley, Ragland, Reep, J. Roebuck, Sample,  
6 Walters, Berry, T. Bradford, Burkes, Cheatham, Cook, D. Creekmore, Dickinson, Gaskill, Harris,  
7 Kenney, Key, Lovell, M. Martin, Maxwell, Norton, Pace, Rosenbaum, Sullivan, Wells, Woods  
8  
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## For An Act To Be Entitled

11 AN ACT TO CREATE A PRESUMPTION RELATING TO THE  
12 USE OF DEADLY PHYSICAL FORCE; TO AUTHORIZE THE  
13 USE OF DEADLY PHYSICAL FORCE IN DEFENSE OF A  
14 PERSON UNDER CERTAIN CIRCUMSTANCES; TO CREATE  
15 *CIVIL IMMUNITY* FOR THE USE OF DEADLY PHYSICAL  
16 FORCE UNDER CERTAIN CIRCUMSTANCES; AND FOR OTHER  
17 PURPOSES.  
18

## Subtitle

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

33 5-2-607. Use of deadly physical force in defense of a person.

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

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



1 violence;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 ~~(1) The person removed or sought to be removed is a child,~~  
35 ~~grandchild, or other person that is in the lawful custody or under the lawful~~  
36 ~~guardianship of the person against whom the deadly physical force is used;~~

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

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

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

8           (B) Identifies himself or herself in accordance with  
9 applicable law;

10          (4) The person who used deadly physical force knew or reasonably  
11 should have known that the person entering or attempting to enter a dwelling  
12 or occupiable structure was a law enforcement officer; or

13          (5) The person who used deadly physical force knew or reasonably  
14 should have known that the use of deadly physical force was not reasonably  
15 necessary to prevent conduct described in subdivisions (a)(1), (a)(2), or  
16 (a)(3) of this section.

17          (d) A person who is not engaged in an unlawful activity and who is in  
18 any place where he or she has a legal right to be and who is confronted with  
19 conduct described in subdivisions (a)(1), (a)(2), or (a)(3) of this section  
20 has no duty to retreat and has the right to stand his or her ground with  
21 deadly physical force.

22          (e) A person who unlawfully and by force enters or attempts to enter a  
23 dwelling or occupiable structure in violation of an order of protection,  
24 restraining order, or condition of bond is presumed to be doing so with the  
25 purpose to engage in conduct described in subdivisions (a)(1), (a)(2), or  
26 (a)(3) of this section regardless of whether the person is a resident, owner,  
27 lessor, lessee, or titleholder of the dwelling or occupiable structure.

28          (f) A person who uses deadly physical force under circumstances  
29 described in subsection (b) or (d) of this section is justified in using the  
30 deadly physical force and is immune from civil action for the use of the  
31 deadly physical force.

32          (g) A court shall award reasonable attorney fees, court costs,  
33 compensation for loss of income, and all expenses incurred by a person in  
34 defense of any civil action brought by another person if the court finds that  
35 the person is immune from civil action as provided in subsection (f) of this  
36 section.

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*/s/ Burriss, et al*