

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

A Bill

HOUSE BILL 1027

4
5 By: Representative Burris
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For An Act To Be Entitled

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

Subtitle

17 TO CREATE A PRESUMPTION RELATING TO THE
18 USE OF DEADLY PHYSICAL FORCE; TO
19 AUTHORIZE THE USE OF DEADLY PHYSICAL
20 FORCE UNDER CERTAIN CIRCUMSTANCES; AND
21 TO CREATE CIVIL AND CRIMINAL IMMUNITY
22 UNDER CERTAIN CIRCUMSTANCES.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. This act shall be known as the "Stand Your Ground Law".
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30 SECTION 2. Arkansas Code § 5-2-607 is amended to read as follows:
31 5-2-607. Use of deadly physical force in defense of a person.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 supervision order of no contact against that person;

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

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

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

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

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

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

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

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

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

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

36 (g)(1) A person who uses deadly physical force under circumstances

1 described in subsection (b) or (d) of this section is justified in using the
2 deadly physical force and is immune from criminal prosecution and civil
3 action for the use of the deadly physical force.

4 (2)(A) As used in this section, "criminal prosecution" means
5 arresting, detaining in custody, charging with an offense, or prosecuting a
6 person.

7 (B) A law enforcement agency may use standard procedures
8 for investigating the use of deadly physical force, but the law enforcement
9 agency may not arrest a person for using deadly physical force unless it is
10 determined that there is probable cause to believe the deadly physical force
11 was unlawful.

12 (h) A court shall award reasonable attorney fees, court costs,
13 compensation for loss of income, and all expenses incurred by a person in
14 defense of any civil action brought by another person if the court finds that
15 the person is immune from civil action as provided in subsection (g) of this
16 section.

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