

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2049

By: Hardin

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2021, Section 1289.25, which relates to the
9 use of physical or deadly force; expanding scope of
10 certain definition; and providing an effective date.

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

12 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.25, is
13 amended to read as follows:

14 Section 1289.25

15 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

16 A. The Legislature hereby recognizes that the citizens of the
17 State of Oklahoma have a right to expect absolute safety within
18 their own homes, places of business or places of worship and have
19 the right to establish policies regarding the possession of weapons
20 on property pursuant to the provisions of Section 1290.22 of this
21 title.

22 B. A person, regardless of official capacity or lack of
23 official capacity, within a place of worship or a person, an owner,
24 manager or employee of a business is presumed to have held a

1 reasonable fear of imminent peril of death or great bodily harm to
2 himself or herself or another when using defensive force that is
3 intended or likely to cause death or great bodily harm to another
4 if:

5 1. a. The person against whom the defensive force was used
6 was in the process of unlawfully and forcefully
7 entering, or had unlawfully and forcibly entered, a
8 dwelling, residence, occupied vehicle, place of
9 business or place of worship, or if that person had
10 removed or was attempting to remove another against
11 the will of that person from the dwelling, residence,
12 occupied vehicle, place of business or place of
13 worship.

14 b. The person who uses defensive force knew or had reason
15 to believe that an unlawful and forcible entry or
16 unlawful and forcible act was occurring or had
17 occurred; or

18 2. The person who uses defensive force knew or had a reasonable
19 belief that the person against whom the defensive force was used
20 entered or was attempting to enter into a dwelling, residence,
21 occupied vehicle, place of business or place of worship for the
22 purpose of committing a forcible felony, as defined in Section 733
23 of this title, and that the defensive force was necessary to prevent
24 the commission of the forcible felony.

1 C. The presumption set forth in subsection B of this section
2 does not apply if:

3 1. The person against whom the defensive force is used has the
4 right to be in or is a lawful resident of the dwelling, residence,
5 or vehicle, such as an owner, lessee, or titleholder, and there is
6 not a protective order from domestic violence in effect or a written
7 pretrial supervision order of no contact against that person;

8 2. The person or persons sought to be removed are children or
9 grandchildren, or are otherwise in the lawful custody or under the
10 lawful guardianship of, the person against whom the defensive force
11 is used; or

12 3. The person who uses defensive force is engaged in an
13 unlawful activity or is using the dwelling, residence, occupied
14 vehicle, place of business or place of worship to further an
15 unlawful activity.

16 D. A person who is not engaged in an unlawful activity and who
17 is attacked in any other place where he or she has a right to be has
18 no duty to retreat and has the right to stand his or her ground and
19 meet force with force, including deadly force, if he or she
20 reasonably believes it is necessary to do so to prevent death or
21 great bodily harm to himself or herself or another or to prevent the
22 commission of a forcible felony.

23 E. A person who unlawfully and by force enters or attempts to
24 enter the dwelling, residence, occupied vehicle of another person,

1 place of business or place of worship is presumed to be doing so
2 with the intent to commit an unlawful act involving force or
3 violence.

4 F. A person who uses defensive force, as permitted pursuant to
5 the provisions of subsections A, B, D and E of this section, is
6 justified in using such defensive force and is immune from criminal
7 prosecution and civil action for the use of such defensive force.
8 As used in this subsection, the term "criminal prosecution" includes
9 charging or prosecuting the defendant.

10 G. A law enforcement agency may use standard procedures for
11 investigating the use of defensive force, but the law enforcement
12 agency may not arrest the person for using defensive force unless it
13 determines that there is probable cause that the defensive force
14 that was used was unlawful.

15 H. The court shall award reasonable attorney fees, court costs,
16 compensation for loss of income, and all expenses incurred by the
17 defendant in defense of any civil action brought by a plaintiff if
18 the court finds that the defendant is immune from prosecution as
19 provided in subsection F of this section.

20 I. The provisions of this section and the provisions of the
21 Oklahoma Self-Defense Act shall not be construed to require any
22 person using a weapon pursuant to the provisions of this section to
23 be licensed in any manner.

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1 J. A person pointing a weapon at a perpetrator in self-defense
2 or in order to thwart, stop or deter a forcible felony or attempted
3 forcible felony shall not be deemed guilty of committing a criminal
4 act.

5 K. As used in this section:

6 1. "Defensive force" includes, but shall not be limited to,
7 pointing a weapon at a perpetrator in self-defense or in order to
8 thwart, stop or deter a forcible felony or attempted forcible
9 felony;

10 2. "Dwelling" means ~~a building or conveyance of any kind,~~
11 ~~including any attached porch, whether the building or conveyance is~~
12 ~~temporary or permanent, mobile or immobile, which has a roof over~~
13 ~~it, including a tent, and is designed to be occupied by people the~~
14 parcel of land to the property lines and any building or structure
15 erected thereon, of whatever form, regardless of whether movable or
16 temporary, which is for the time being the residence or place of
17 lodging of the person;

18 3. "Place of worship" means:

19 a. any permanent building, structure, facility or office
20 space owned, leased, rented or borrowed, on a full-
21 time basis, when used for worship services, activities
22 and business of the congregation, which may include,
23 but not be limited to, churches, temples, synagogues
24 and mosques, and

1 b. any permanent building, structure, facility or office
2 space owned, leased, rented or borrowed for use on a
3 temporary basis, when used for worship services,
4 activities and business of the congregation including,
5 but not limited to, churches, temples, synagogues and
6 mosques;

7 4. "Residence" means a dwelling in which a person resides
8 either temporarily or permanently or is visiting as an invited
9 guest; and

10 5. "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, 2023.

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14 59-1-5019 GRS 01/10/23
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