

HB192 ENGROSSED



1 HB192
2 L5IUFWA-2
3 By Representative Faulkner
4 RFD: Judiciary
5 First Read: 13-Jan-26



HB192 Engrossed

A BILL

TO BE ENTITLED

AN ACT

Relating to criminal law; to amend Section 13A-3-23, Code of Alabama 1975, to further provide for the justification of using physical force in defense of self or an individual; to establish a presumption that the use of force in defense of self or another is not justified when a defendant engages in certain conduct.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-3-23, Code of Alabama 1975, is amended to read as follows:

"§13A-3-23

(a) A person is justified in using physical force upon another person ~~in order to~~ when both of the following are satisfied:

(1) The person's use of force is to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by another ~~that other person, and he or she may use.~~

(2) The person uses a degree of force which he or she reasonably believes to be necessary for the purpose.

(b) (1) A person may use deadly physical force, and is



HB192 Engrossed

legally presumed to be justified in using deadly physical force in self-defense or ~~the~~ defense of another ~~person~~ pursuant to this subdivision ~~(5)~~, if the person reasonably believes that another person is doing any of the following:

~~(1)~~ a. Using or about to use unlawful deadly physical force.

~~(2)~~ b. Using or about to use physical force against an occupant of a dwelling while committing or attempting to commit a burglary of such dwelling.

~~(3)~~ c. Committing or about to commit a kidnapping in any degree, assault in the first or second degree, burglary in any degree, robbery in any degree, forcible rape, or forcible sodomy.

~~(4)~~ d. Using or about to use physical force against an owner, employee, or other person authorized to be on business property when the business is closed to the public while committing or attempting to commit a crime involving death, serious physical injury, robbery, kidnapping, rape, sodomy, or a crime of a sexual nature involving a child under ~~the age of~~ 12 years of age.

~~(5)~~ e. In the process of unlawfully and forcefully entering, or has unlawfully and forcefully entered, a dwelling, residence, business property, or occupied vehicle, or federally licensed nuclear power facility, or is in the process of sabotaging or attempting to sabotage a federally licensed nuclear power facility, or is attempting to remove, or has forcefully removed, a person against his or her will from any dwelling, residence, business property, or occupied



HB192 Engrossed

57 vehicle when the person has a legal right to be there, and
58 provided that the person using the deadly physical force knows
59 or has reason to believe that an unlawful and forcible entry
60 or unlawful and forcible act is occurring.

61 (2) The legal presumption that a person using deadly
62 physical force is justified to do so pursuant to this
63 subdivision does not apply if any of the following apply:

64 a. The person against whom the defensive force is used
65 has the right to be in or is a lawful resident of the
66 dwelling, residence, or vehicle, such as an owner or lessee,
67 and there is not an injunction for protection from domestic
68 violence or a written pretrial supervision order of no contact
69 against that person;

70 b. The person sought to be removed is a child or
71 grandchild, or is otherwise in the lawful custody or under the
72 lawful guardianship of, the person against whom the defensive
73 force is used;

74 c. The person who uses defensive force is engaged in an
75 unlawful activity or is using the dwelling, residence, or
76 occupied vehicle to further an unlawful activity; or

77 d. The person against whom the defensive force is used
78 is a law enforcement officer acting in the performance of his
79 or her official duties.

80 ~~(b)~~ (c) A person who is otherwise justified under
81 ~~subsection (a) this section~~ in using physical force, including
82 deadly physical force, and who is not engaged in an unlawful
83 activity, and who is in any place where he or she has the
84 right to be has no duty to retreat and has the right to stand



HB192 Engrossed

his or her ground.

~~(e)~~ (d) Notwithstanding the provisions of subsection (a) or (b), a person is not justified in using physical force if any of the following apply:

(1) With intent to cause physical injury or death to another ~~person~~, he or she provoked the use of unlawful physical force by ~~such~~ the other person.

(2) He or she was the initial aggressor, except that his or her use of physical force upon another person ~~under the circumstances~~ is justifiable if he or she withdraws from the encounter and effectively communicates to the other person his or her intent to do so, but the ~~latter~~ other person nevertheless continues or threatens the use of unlawful physical force.

(3) The physical force involved was the product of a combat by agreement not specifically authorized by law.

(e) At any time when a defense is claimed under this section, if the defendant concealed, altered, destroyed, or otherwise disposed of the deadly weapon or dangerous instrument used in the commission of the alleged offense, other than by voluntarily providing the unaltered deadly weapon or dangerous instrument to law enforcement, there shall be a rebuttable presumption that the defendant's use of physical force, including deadly physical force, was not justified.

~~(d)~~ (f) (1) A person who uses force, including deadly physical force, as justified and permitted in this section, is immune from criminal prosecution and civil action for the use

HB192 Engrossed



of such force, unless the force was determined to be unlawful.

(2) Prior to the commencement of a trial in a case in which a defense is claimed under this section, the court having jurisdiction over the case, upon motion of the defendant, shall conduct a pretrial hearing to determine whether force, including deadly force, used by the defendant was justified or whether it was unlawful under this section. During any pretrial hearing to determine immunity, the defendant must show by a preponderance of the evidence that he or she is immune from criminal prosecution.

(3) If, after a pretrial hearing under subdivision (2), the court concludes that the defendant has proven by a preponderance of the evidence that force, including deadly force, was justified, the court shall enter an order finding the defendant immune from criminal prosecution and dismissing the criminal charges.

(4) If the defendant does not meet his or her burden of proving immunity at the pre-trial hearing, he or she may continue to pursue the defense of self-defense or defense of another person at trial. Once the issue of self-defense or defense of another person has been raised by the defendant, the state continues to bear the burden of proving beyond a reasonable doubt all of the elements of the charged conduct.

~~(e)~~ (g) A law enforcement agency may use standard procedures for investigating the use of force described in ~~subsection (a)~~ this section, but ~~the agency may not arrest the~~ any person for using force unless ~~it determines that~~ there is probable cause that the force used was unlawful."



HB192 Engrossed

141 Section 2. This act shall become effective on October
142 1, 2026.

HB192 Engrossed



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House of Representatives

146 Read for the first time and referred13-Jan-26
147 to the House of Representatives
148 committee on Judiciary
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150 Read for the second time and placed21-Jan-26
151 on the calendar:
152 1 amendment
153
154 Read for the third time and passed03-Feb-26
155 as amended
156 Yeas 104
157 Nays 0
158 Abstains 0
159
160

161 John Treadwell
162 Clerk
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