

HOUSE OF REPRESENTATIVES
Thursday, March 2, 2006

**Committee Substitute for
House Bill No. 2615**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2615 — By CALVEY, ELLIS, BILLY, BLACKWELL, DUNCAN, CASE, COOKSEY, INGMIRE, NANCE and PERRY of the House and COATES of the Senate.

An Act relating to firearms; creating the Stand Your Ground Law; amending 21 O.S. 2001, Section 1289.25, which relates to physical or deadly force against intruder; creating presumption that reasonable fear of death or great bodily harm exists under certain circumstances; providing exceptions; authorizing the use of certain force under certain circumstances; creating presumption that a person acts with intent to use force or violence under specified circumstances; clarifying scope of criminal and civil immunity; defining term; authorizing use of certain investigative procedures; prohibiting arrest for use of force unless probable cause determined; requiring certain costs be awarded upon a finding of immunity; defining terms; providing for noncodification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma

2 Statutes reads as follows:

3 Sections 1 and 2 of this act shall be known and may be cited as the “Stand Your Ground
4 Law”.

5 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1289.25, is amended to read as fol-
6 lows:

7 Section 1289.25

8 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

1 A. The Legislature hereby recognizes that the citizens of the State of Oklahoma have a
2 right to expect absolute safety within their own homes.

3 B. ~~Any occupant of a dwelling is justified in using any degree of physical force, includ-~~
4 ~~ing but not limited to deadly force, against~~ A person is presumed to have held a reasonable
5 fear of imminent peril of death or great bodily harm to himself or herself or another person
6 who has made an unlawful entry into that dwelling, and when the occupant has a reasonable
7 belief that such other person might use any physical when using defensive force, no matter
8 how slight, against any occupant of the dwelling that is intended or likely to cause death or
9 great bodily harm to another if:

10 1. The person against whom the defensive force was used was in the process of unlaw-
11 fully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence,
12 or occupied vehicle, or if that person had removed or was attempting to remove another
13 against the will of that person from the dwelling, residence, or occupied vehicle; and

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

16 C. ~~Any occupant of a dwelling using physical~~ The presumption set forth in subsection B
17 of this section does not apply if:

18 1. The person against whom the defensive force is used has the right to be in or is a law-
19 ful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder,
20 and there is not a protective order from domestic violence in effect or a written pretrial su-
21 pervision order of no contact against that person;

22 2. The person or persons sought to be removed are children or grandchildren, or are

1 otherwise in the lawful custody or under the lawful guardianship of, the person against
2 whom the defensive force is used; or

3 3. The person who uses defensive force is engaged in an unlawful activity or is using
4 the dwelling, residence, or occupied vehicle to further an unlawful activity.

5 D. A person who is not engaged in an unlawful activity and who is attacked in any oth-
6 er place where he or she has a right to be has no duty to retreat and has the right to stand his
7 or her ground and meet force with force, including deadly force, if he or she reasonably be-
8 lieves it is necessary to do so to prevent death or great bodily harm to himself or herself or
9 another or to prevent the commission of a forcible felony.

10 E. A person who unlawfully and by force enters or attempts to enter the dwelling, res-
11 idence, or occupied vehicle of another person is presumed to be doing so with the intent to
12 commit an unlawful act involving force or violence.

13 F. A person who uses force, ~~including but not limited to deadly force,~~ as permitted pur-
14 suant to the provisions of ~~subsection~~ subsections B and D of this section, ~~shall have an affir-~~
15 native defense in any is justified in using such force and is immune from criminal prosecu-
16 tion for an offense arising from the reasonable and civil action for the use of such force and
17 shall be immune from any civil liability for injuries or death resulting from the reasonable
18 use of such force. As used in this subsection, the term “criminal prosecution” includes ar-
19 resting, detaining in custody, and charging or prosecuting the defendant.

20 D. G. A law enforcement agency may use standard procedures for investigating the use
21 of force, but the law enforcement agency may not arrest the person for using force unless it
22 determines that there is probable cause that the force that was used was unlawful.

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

5 I. The provisions of this section and the provisions of the Oklahoma Self-Defense Act,
6 Sections ~~4~~ 1290.1 through ~~25~~ 1290.26 of this ~~act~~ title, shall not be construed to require any
7 person using a pistol pursuant to the provisions of this section to be licensed in any manner.

8 J. As used in this section:

9 1. “Dwelling” means a building or conveyance of any kind, including any attached
10 porch, whether the building or conveyance is temporary or permanent, mobile or immobile,
11 which has a roof over it, including a tent, and is designed to be occupied by people lodging
12 therein at night;

13 2. “Residence” means a dwelling in which a person resides either temporarily or per-
14 manently or is visiting as an invited guest; and

15 3. “Vehicle” means a conveyance of any kind, whether or not motorized, which is de-
16 signed to transport people or property.

17 SECTION 3. This act shall become effective November 1, 2006.
18 COMMITTEE REPORT BY: COMMITTEE ON CORRECTIONS AND CRIMINAL JUSTICE,
dated 3-1-06 — DO PASS, As Amended and Coauthored.

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21 UNDERLINED language denotes Amendments to present Statutes.

BOLD FACE CAPITALIZED language denotes Committee Amendments.

22 ~~Strike thru~~ language denotes deletion from present Statutes.