

SB188 INTRODUCED



1 SB188
2 CX322QJ-1
3 By Senator Weaver
4 RFD: Judiciary
5 First Read: 21-Jan-26



4 SYNOPSIS:

5 Under existing law, an individual is justified
6 in using physical force upon another in order to defend
7 himself or herself or a third party from what the
8 acting individual reasonably believes to be the use or
9 imminent use of unlawful physical force by another.
10 Existing law also provides specified circumstances
11 where an individual may use deadly physical force
12 against another.

13 Prior to the commencement of a trial against a
14 defendant in which the defendant claims his or her use
15 of force is justified, the defendant must show by a
16 preponderance of the evidence that his or her use of
17 force was justified.

18 This bill would provide that in such a
19 proceeding, if the defendant concealed, altered,
20 destroyed, or otherwise disposed of a weapon used in
21 the commission of physical force or deadly physical
22 force, other than voluntarily providing the weapon to
23 law enforcement, there is a presumption that the
24 defendant's use of force was not justified.

28 A BILL



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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 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



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57 force.

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

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

65 ~~(4)~~d. Using or about to use physical force against an
66 owner, employee, or other person authorized to be on business
67 property when the business is closed to the public while
68 committing or attempting to commit a crime involving death,
69 serious physical injury, robbery, kidnapping, rape, sodomy, or
70 a crime of a sexual nature involving a child under ~~the age of~~
71 12 years of age.

72 ~~(5)~~e. In the process of unlawfully and forcefully
73 entering, or has unlawfully and forcefully entered, a
74 dwelling, residence, business property, or occupied vehicle,
75 or federally licensed nuclear power facility, or is in the
76 process of sabotaging or attempting to sabotage a federally
77 licensed nuclear power facility, or is attempting to remove,
78 or has forcefully removed, a person against his or her will
79 from any dwelling, residence, business property, or occupied
80 vehicle when the person has a legal right to be there, and
81 provided that the person using the deadly physical force knows
82 or has reason to believe that an unlawful and forcible entry
83 or unlawful and forcible act is occurring.

84 (2) The legal presumption that a person using deadly



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physical force is justified to do so pursuant to this subdivision does not apply if any of the following apply:

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

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

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

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

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



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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 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



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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."

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