

**SB188 INTRODUCED**



1 SB188

2 CX322QJ-1

3 By Senator Weaver

4 RFD: Judiciary

5 First Read: 21-Jan-26



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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.

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A BILL



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29 TO BE ENTITLED  
30 AN ACT

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

41 "§13A-3-23

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

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

51                   **(b) (1)** A person may use deadly physical force, and is  
52                   legally presumed to be justified in using deadly physical  
53                   force in self-defense or ~~the~~-defense of another~~-person~~  
54                   pursuant to this subdivision~~-(5)~~, if the person reasonably  
55                   believes that another person is doing any of the following:

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



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



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

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

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

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

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

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

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

112 (1) With intent to cause physical injury or death to



113 another ~~person~~, he or she provoked the use of unlawful  
114 physical force by ~~such~~ the other person.

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

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

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

133 ~~(d)~~ (f) (1) A person who uses force, including deadly  
134 physical force, as justified and permitted in this section, is  
135 immune from criminal prosecution and civil action for the use  
136 of such force, unless the force was determined to be unlawful.

137 (2) Prior to the commencement of a trial in a case in  
138 which a defense is claimed under this section, the court  
139 having jurisdiction over the case, upon motion of the  
140 defendant, shall conduct a pretrial hearing to determine



141 whether force, including deadly force, used by the defendant  
142 was justified or whether it was unlawful under this section.  
143 During any pretrial hearing to determine immunity, the  
144 defendant must show by a preponderance of the evidence that he  
145 or she is immune from criminal prosecution.

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

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

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

164 Section 2. This act shall become effective on October  
165 1, 2026.