

HB408 INTRODUCED



1 HB408

2 RB2BTYY-1

3 By Representatives Yarbrough, Stringer, Treadaway, Wadsworth,

4 Butler, Mooney, Bolton, Colvin, Stadthagen, Harrison,

5 Robertson

6 RFD: Judiciary

7 First Read: 06-Mar-25



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SYNOPSIS:

Under existing law, a person may use physical force, including deadly physical force, to defend himself, herself, or another person from what he or she reasonably believes to be the use or imminent use of unlawful physical force, with exception.

This bill would provide a presumption of reasonableness in regard to an individual's use of physical force to defend himself, herself, or another person.

Under existing law, an individual who uses force that is justified is immune from criminal prosecution and civil action for the use of such force unless the force was determined unlawful.

This bill would provide that a person is immune from criminal prosecution or civil action for the use of justified physical force for self-defense unless the individual against whom force was used was a law enforcement officer carrying out an official duty or the individual knew or should have known the individual against whom force was used was a law enforcement officer.

Under existing law, a defendant claiming self-defense has the burden of proving, by a preponderance of the evidence, that his or her use of



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29 force was reasonable.

30 This bill would shift the burden of proof to the
31 state by requiring a showing by clear and convincing
32 evidence that the defendant's use of force was
33 unreasonable.

34 This bill would also make nonsubstantive,
35 technical revisions to update the existing code
36 language to current style.

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A BILL

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TO BE ENTITLED

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AN ACT

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43 Relating to self-defense, to amend Section 13A-3-23,
44 Code of Alabama 1975, to provide a person's use of physical
45 force in defending himself, herself, or another person is
46 presumed reasonable; to further provide for the immunity
47 received by a person whose use of physical force on another
48 person is justified self-defense; to shift the burden of
49 proving a person's use of physical force is not justified to
50 the state; and to make nonsubstantive, technical revisions to
51 update the existing code language to current style.

52 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

53 Section 1. This act shall be known and may be cited as
54 the Stand Your Ground Innocence Act.

55 Section 2. Section 13A-3-23, Code of Alabama 1975, is
56 amended to read as follows:



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57 "§13A-3-23

58 (a) A person is justified in using physical force upon
59 another person in order to defend himself, ~~or~~ herself, ~~or~~
60 ~~third~~ another person from what he or she reasonably believes
61 to be the use or imminent use of unlawful physical force by
62 that other person, and he or she may use a degree of force
63 which he or she reasonably believes to be necessary for the
64 purpose. A person may use deadly physical force, and is
65 legally presumed to be justified in using deadly physical
66 force in self-defense or the defense of another person
67 pursuant to subdivision (5), if the person reasonably believes
68 that another person is:

69 (1) Using or about to use unlawful deadly physical
70 force ~~;~~ ;

71 (2) Using or about to use physical force against an
72 occupant of a dwelling while committing or attempting to
73 commit a burglary of such dwelling ~~;~~ ;

74 (3) Committing or about to commit a kidnapping in any
75 degree, assault in the first or second degree, burglary in any
76 degree, robbery in any degree, forcible rape, or forcible
77 sodomy ~~;~~ ;

78 (4) Using or about to use physical force against an
79 owner, employee, or other person authorized to be on business
80 property when the business is closed to the public while
81 committing or attempting to commit a crime involving death,
82 serious physical injury, robbery, kidnapping, rape, sodomy, or
83 a crime of a sexual nature involving a child under ~~the age of~~
84 12 years of age; or ~~;~~



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85 (5) In the process of unlawfully and forcefully
86 entering, or has unlawfully and forcefully entered, a
87 dwelling, residence, business property, or occupied vehicle,
88 or federally licensed nuclear power facility~~;~~~~or~~ is in the
89 process of sabotaging or attempting to sabotage a federally
90 licensed nuclear power facility~~;~~ or is attempting to remove,
91 or has forcefully removed, a person against his or her will
92 from any dwelling, residence, business property, or occupied
93 vehicle when the person has a legal right to be there, and
94 provided that the person using the deadly physical force knows
95 or has reason to believe that an unlawful and forcible entry
96 or unlawful and forcible act is occurring. The legal
97 presumption that a person using deadly physical force is
98 justified to do so pursuant to this subdivision does not apply
99 ~~if~~ in any of the following circumstances:

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

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

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



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

116 (b) A person who is justified under subsection (a) in
117 using physical force, including deadly physical force, and who
118 is not engaged in an unlawful activity and is in any place
119 where he or she has the right to be has no duty to retreat and
120 has the right to stand his or her ground.

121 (c) Notwithstanding the provisions of subsection (a), a
122 person is not justified in using physical force if:

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

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

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

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

139 (1) The person against whom force was used was a law
140 enforcement officer carrying out his or her official duties



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141 and the officer identified himself or herself in accordance
142 with applicable laws.

143 (2) The person knew or reasonably should have known the
144 individual against whom force was used or threatened was a law
145 enforcement officer carrying out his or her official duties.

146 (e) There shall be a presumption of reasonableness
147 under this section that the defendant believed the use of
148 force was necessary to defend himself, herself, or another
149 person from what he or she believed to be the use or imminent
150 use of unlawful force by another person.

151 ~~(2)~~ (f) (1) Prior to the commencement of a trial in a
152 case in which a defense is claimed under this section, the
153 court having jurisdiction over the case, upon motion of the
154 defendant, shall conduct a pretrial hearing to determine
155 whether force, including deadly force, used by the defendant
156 was justified or whether it was unlawful under this section.
157 During any pretrial hearing to determine immunity, the
158 ~~defendant state~~ must show by ~~a preponderance of the~~ clear and
159 convincing evidence that ~~he or she~~ the defendant is not immune
160 from criminal prosecution.

161 ~~(3)~~ (2) If, after a pretrial hearing under ~~subdivision~~
162 ~~(2)~~ this subsection, the court concludes that the ~~defendant~~
163 state has ~~proven~~ failed to prove by ~~a preponderance of the~~
164 clear and convincing evidence that the use of force, including
165 deadly force, was not justified, the court shall enter an
166 order finding the defendant immune from criminal prosecution
167 and ~~dismissing shall dismiss~~ the criminal charges.

168 ~~(4)~~ (3) If the ~~defendant state~~ does ~~not~~ meet ~~his or her~~



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169 its burden of proving ~~immunity~~ by clear and convincing
170 evidence that the use of force, including deadly force, was
171 not justified at the pre-trial hearing, ~~he or she~~ the state
172 may continue to pursue ~~the defense of self-defense or defense~~
173 ~~of another person~~ the claim at trial.

174 (4) Once the issue of self-defense or defense of
175 another person has been raised by the defendant, the state
176 continues to bear the burden of proving beyond a reasonable
177 doubt all of the elements of the charged conduct.

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

183 Section 3. This act shall become effective on October
184 1, 2025.