

118TH CONGRESS  
1ST SESSION

# S. 1445

To amend title 18, United States Code, to provide an affirmative defense for certain criminal violations, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 4, 2023

Mr. MULLIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to provide an affirmative defense for certain criminal violations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stand Your Ground  
5 Act of 2023”.

6 **SEC. 2. CERTAIN AFFIRMATIVE DEFENSES.**

7 (a) AFFIRMATIVE DEFENSE.—

8 (1) IN GENERAL.—Chapter 1 of title 18, United  
9 States Code, is amended by adding at the end the  
10 following:

1 **“§ 28. Affirmative defense for certain criminal viola-**  
2 **tions**

3 “(a) DEFINITION.—In this section, the term ‘forcible  
4 felony’ includes treason, murder, manslaughter, sexual  
5 battery, carjacking, home-invasion robbery, robbery, bur-  
6 glary, arson, kidnapping, aggravated assault, aggravated  
7 battery, aggravated stalking, aircraft piracy, unlawful  
8 throwing, placing, or discharging of a destructive device  
9 or bomb, and any other felony which involves the use or  
10 threat of physical force or violence against any individual.

11 “(b) USE OR THREATENED USE OF NON-DEADLY  
12 FORCE IN DEFENSE OF PERSON.—

13 “(1) IN GENERAL.—It shall be an affirmative  
14 defense to a prosecution under this title that the de-  
15 fendant used, threatened to use, or attempted to use  
16 force, except deadly force, against an aggressor if,  
17 and to the extent that, the defendant reasonably be-  
18 lieved that the use, threat to use, or attempt to use  
19 such force was necessary to defend the defendant or  
20 another individual against the imminent use of un-  
21 lawful force by the aggressor.

22 “(2) NO DUTY TO RETREAT.—For purposes of  
23 paragraph (1), an individual who is at risk of be-  
24 coming a victim of a forcible felony shall not be re-  
25 quired to first seek retreat as the preferred alter-  
26 native to using force to act in self-defense.

1       “(c) USE OR THREATENED USE OF DEADLY FORCE  
2 IN DEFENSE OF PERSON.—

3           “(1) IN GENERAL.—It shall be an affirmative  
4 defense to a prosecution under this title that the de-  
5 fendant used, threatened to use, or attempted to use  
6 deadly force against an aggressor if the defendant  
7 reasonably believed that the use, threat to use, or at-  
8 tempt to use such force was necessary to—

9           “(A) prevent imminent death or great bod-  
10 ily harm to the defendant or another individual;  
11 or

12           “(B) prevent the imminent commission of  
13 a forcible felony.

14       “(2) NO DUTY TO RETREAT; RIGHT TO STAND  
15 YOUR GROUND.—For purposes of paragraph (1), an  
16 individual who is at risk of becoming a victim of a  
17 forcible felony—

18           “(A) shall not be required to first seek re-  
19 treat as the preferred alternative to using force  
20 to act in self-defense; and

21           “(B) may use any means necessary to de-  
22 fend himself or herself if the individual—

23           “(i) is not engaged in criminal activ-  
24 ity; and

1                   “(ii) is in a place where the individual  
2                   has a right to be.

3           “(d) BURDEN OF PROOF.—The defendant has the  
4 burden of proving a defense under this section by a pre-  
5 ponderance of the evidence.”.

6           (2) TABLE OF SECTIONS.—The table of sections  
7 for chapter 1 of title 18, United States Code, is  
8 amended by adding at the end the following:

“28. Affirmative defense for certain criminal violations.”.

9           (b) EFFECTIVE DATE; APPLICABILITY.—The amend-  
10 ments made by subsection (a) shall—

11           (1) take effect on the date of enactment of this  
12 Act; and

13           (2) apply to any prosecution commenced after  
14 the date of enactment of this Act.

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