

**House Judiciary Reported Substitute for HB192**

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5 A BILL

6 TO BE ENTITLED

7 AN ACT

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9 Relating to criminal law; to amend Section 13A-3-23,  
10 Code of Alabama 1975, to further provide for the justification  
11 of using physical force in defense of self or an individual;  
12 to establish a presumption that the use of force in defense of  
13 self or another is not justified when a defendant engages in  
14 certain conduct.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§13A-3-23

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

22 (1) The person's use of force is to defend himself or  
23 herself or a third person from what he or she reasonably  
24 believes to be the use or imminent use of unlawful physical  
25 force by ~~another~~that other person, and he or she may use.

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

28 (b) (1) A person may use deadly physical force, and is

**House Judiciary Reported Substitute for HB192**

29 legally presumed to be justified in using deadly physical  
30 force in self-defense or ~~the~~ defense of another ~~person~~  
31 pursuant to this subdivision ~~(5)~~, if the person reasonably  
32 believes that another person is doing any of the following:

33 ~~(1)~~a. Using or about to use unlawful deadly physical  
34 force.

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

38 ~~(3)~~c. Committing or about to commit a kidnapping in any  
39 degree, assault in the first or second degree, burglary in any  
40 degree, robbery in any degree, forcible rape, or forcible  
41 sodomy.

42 ~~(4)~~d. Using or about to use physical force against an  
43 owner, employee, or other person authorized to be on business  
44 property when the business is closed to the public while  
45 committing or attempting to commit a crime involving death,  
46 serious physical injury, robbery, kidnapping, rape, sodomy, or  
47 a crime of a sexual nature involving a child under ~~the age of~~  
48 12 years of age.

49 ~~(5)~~e. In the process of unlawfully and forcefully  
50 entering, or has unlawfully and forcefully entered, a  
51 dwelling, residence, business property, or occupied vehicle,  
52 or federally licensed nuclear power facility, or is in the  
53 process of sabotaging or attempting to sabotage a federally  
54 licensed nuclear power facility, or is attempting to remove,  
55 or has forcefully removed, a person against his or her will  
56 from any dwelling, residence, business property, or occupied

**House Judiciary Reported Substitute for HB192**

57 vehicle when the person has a legal right to be there, and  
58 provided that the person using the deadly physical force knows  
59 or has reason to believe that an unlawful and forcible entry  
60 or unlawful and forcible act is occurring.

61       (2) The legal presumption that a person using deadly  
62 physical force is justified to do so pursuant to this  
63 subdivision does not apply if any of the following apply:

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

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

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

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

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



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85 his or her ground.

86 ~~(e)~~ (d) Notwithstanding the provisions of subsection (a)  
 87 or (b), a person is not justified in using physical force if  
 88 any of the following apply:

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

92 (2) He or she was the initial aggressor, except that  
 93 his or her use of physical force upon another person ~~under the~~  
 94 ~~circumstances~~ is justifiable if he or she withdraws from the  
 95 encounter and effectively communicates to the other person his  
 96 or her intent to do so, but the ~~latter~~ other person  
 97 nevertheless continues or threatens the use of unlawful  
 98 physical force.

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

101 (e) At any time when a defense is claimed under this  
 102 section, if the defendant concealed, altered, destroyed, or  
 103 otherwise disposed of the deadly weapon or dangerous  
 104 instrument used in the commission of the alleged offense,  
 105 other than by voluntarily providing the unaltered deadly  
 106 weapon or dangerous instrument to law enforcement, there shall  
 107 be a rebuttable presumption that the defendant's use of  
 108 physical force, including deadly physical force, was not  
 109 justified.

110 ~~(d)~~ (f) (1) A person who uses force, including deadly  
 111 physical force, as justified and permitted in this section, is  
 112 immune from criminal prosecution and civil action for the use

**House Judiciary Reported Substitute for HB192**

113 of such force, unless the force was determined to be unlawful.

114 (2) Prior to the commencement of a trial in a case in  
115 which a defense is claimed under this section, the court  
116 having jurisdiction over the case, upon motion of the  
117 defendant, shall conduct a pretrial hearing to determine  
118 whether force, including deadly force, used by the defendant  
119 was justified or whether it was unlawful under this section.  
120 During any pretrial hearing to determine immunity, the  
121 defendant must show by a preponderance of the evidence that he  
122 or she is immune from criminal prosecution.

123 (3) If, after a pretrial hearing under subdivision (2),  
124 the court concludes that the defendant has proven by a  
125 preponderance of the evidence that force, including deadly  
126 force, was justified, the court shall enter an order finding  
127 the defendant immune from criminal prosecution and dismissing  
128 the criminal charges.

129 (4) If the defendant does not meet his or her burden of  
130 proving immunity at the pre-trial hearing, he or she may  
131 continue to pursue the defense of self-defense or defense of  
132 another person at trial. Once the issue of self-defense or  
133 defense of another person has been raised by the defendant,  
134 the state continues to bear the burden of proving beyond a  
135 reasonable doubt all of the elements of the charged conduct.

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

**House Judiciary Reported Substitute for HB192**



141                   Section 2. This act shall become effective on October  
142                   1, 2026.