

1 SB155  
2 208759-1  
3 By Senator Allen  
4 RFD: Judiciary  
5 First Read: 02-FEB-21

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, a person in lawful  
9 possession or control of premises or a person who  
10 is licensed or privileged to be on premises, may  
11 use physical force upon another person when and to  
12 the extent that he or she reasonably believes it is  
13 necessary to prevent or terminate what he or she  
14 reasonably believes to be the commission or  
15 attempted commission of a criminal trespass by the  
16 other person in or upon the premises.

17 Also under existing law, a person may use  
18 deadly physical force to defend premises when the  
19 person reasonably believes a trespasser is in the  
20 commission or attempted commission of arson against  
21 the premises.

22 This bill would further provide for the use  
23 of deadly physical force to defend premises by  
24 providing that if an active riot is occurring  
25 within 500 feet of the premises, a person in lawful  
26 possession or control of the premises may use

1 deadly physical force to defend the premises from  
2 criminal mischief or burglary.

3 This bill would also make nonsubstantive,  
4 technical revisions to update the language to  
5 current code style.

6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to self-defense; to amend Sections  
12 13A-3-20, 13A-3-25, and 13A-3-27, Code of Alabama 1975, to  
13 provide further for the right to use force in defense of  
14 premises; and to make nonsubstantive, technical revisions to  
15 update the language to current code style.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 13A-3-20, 13A-3-25, and  
18 13A-3-27, Code of Alabama 1975, are amended to read as  
19 follows:

20 "§13A-3-20.

21 "The following definitions are applicable to this  
22 article:

23 "(1) BUILDING. Any structure which may be entered  
24 and utilized by persons for business, public use, lodging, or  
25 the storage of goods, and includes any vehicle, aircraft, or  
26 watercraft used for the lodging of persons or carrying on  
27 business therein. Each unit of a building consisting of two or

1 more units separately occupied or secured is a separate  
2 building.

3 "(2) DEADLY PHYSICAL FORCE. Force which, under the  
4 circumstances in which it is used, is readily capable of  
5 causing death or serious physical injury.

6 "(3) DWELLING. A building which is usually occupied  
7 by a person lodging therein at night, or a building of any  
8 kind, including any attached balcony, whether the building is  
9 temporary or permanent, mobile or immobile, which has a roof  
10 over it, and is designed to be occupied by people lodging  
11 therein at night.

12 "(4) FORCE. Physical action or threat against  
13 another, including confinement.

14 "(5) PREMISES. The term includes any building,~~as~~  
15 ~~defined in this section,~~ and any real property.

16 "(6) RESIDENCE. A dwelling in which a person resides  
17 either temporarily or permanently or is visiting as an invited  
18 guest.

19 "(7) VEHICLE. A motorized conveyance which is  
20 designed to transport people or property.

21 "§13A-3-25.

22 "(a) A person in lawful possession or control of  
23 premises,~~as defined in Section 13A-3-20,~~ or a person who is  
24 licensed or privileged to be ~~thereon~~ on premises, may use  
25 physical force upon another person when and to the extent that  
26 he or she reasonably believes it necessary to prevent or  
27 terminate what he or she reasonably believes to be the

1 commission or attempted commission of a criminal trespass by  
2 the other person in or upon ~~such~~ the premises.

3 "(b) A person may use deadly physical force under  
4 the circumstances set forth in subsection (a) ~~of this section~~  
5 only under any of the following conditions:

6 "(1) In defense of a person, as provided in Section  
7 13A-3-23;~~or.~~

8 "(2) When he or she reasonably believes it is  
9 necessary to use physical force, deadly or otherwise, to  
10 prevent the commission of arson in the first or second degree  
11 by the trespasser.

12 "(3) If the premises are located within 500 feet of  
13 an active riot, when he or she reasonably believes it is  
14 necessary to use physical force, deadly or otherwise, to  
15 prevent the commission of criminal mischief or burglary by the  
16 trespasser.

17 "§13A-3-27.

18 "(a) A peace officer is justified in using that  
19 degree of physical force which he or she reasonably believes  
20 to be necessary, upon a person in order do either of the  
21 following:

22 "(1) To make an arrest for a misdemeanor, violation,  
23 or violation of a criminal ordinance, or to prevent the escape  
24 from custody of a person arrested for a misdemeanor,  
25 violation, or violation of a criminal ordinance, unless the  
26 peace officer knows that the arrest is unauthorized;~~or.~~

1           "(2) To defend himself or herself or a third person  
2 from what ~~he~~ the officer reasonably believes to be the use or  
3 imminent use of physical force while making or attempting to  
4 make an arrest for a misdemeanor, violation, or violation of a  
5 criminal ordinance, or while preventing or attempting to  
6 prevent an escape from custody of a person who has been  
7 legally arrested for a misdemeanor, violation, or violation of  
8 a criminal ordinance.

9           "(b) A peace officer is justified in using deadly  
10 physical force upon another person when and to the extent that  
11 he or she reasonably believes it necessary in order to do  
12 either of the following:

13           "(1) To make an arrest for a felony or to prevent  
14 the escape from custody of a person arrested for a felony,  
15 unless the officer knows that the arrest is unauthorized, ~~or.~~

16           "(2) To defend himself or herself or a third person  
17 from what ~~he~~ the officer reasonably believes to be the use or  
18 imminent use of deadly physical force.

19           "(c) Nothing in subdivision (a) (1), or (b) (1), or  
20 (f) (2) constitutes justification for reckless or criminally  
21 negligent conduct by a peace officer amounting to an offense  
22 against or with respect to persons being arrested or to  
23 innocent persons whom ~~he~~ the officer is not seeking to arrest  
24 or retain in custody.

25           "(d) A peace officer who is effecting an arrest  
26 pursuant to a warrant is justified in using the physical force

1 ~~prescribed~~ authorized in subsections (a) and (b) unless the  
2 warrant is invalid and is known by the officer to be invalid.

3 "(e) Except as provided in subsection (f), a person  
4 who has been directed by a peace officer to assist him to  
5 effect an arrest or to prevent an escape from custody is  
6 justified in using physical force when and to the extent that  
7 ~~he~~ the person reasonably believes that force to be necessary  
8 to carry out the peace officer's direction.

9 "(f) A person who has been directed to assist a  
10 peace officer under circumstances specified in subsection (e)  
11 may use deadly physical force to effect an arrest or to  
12 prevent an escape only ~~when~~ under either of the following  
13 circumstances:

14 "(1) ~~He~~ The person reasonably believes that force ~~to~~  
15 ~~be~~ is necessary to defend himself or herself or a third person  
16 from what ~~he~~ the person reasonably believes to be the use or  
17 imminent use of deadly physical force, ~~or.~~

18 "(2) ~~He~~ The person is authorized by the peace  
19 officer to use deadly physical force and does not know that  
20 the peace officer ~~himself~~ is not authorized to use deadly  
21 physical force under the circumstances.

22 "(g) A private person acting on his or her own  
23 account is justified in using physical force upon another  
24 person when and to the extent that he or she reasonably  
25 believes it necessary to effect an arrest or to prevent the  
26 escape from custody of an arrested person whom he or she  
27 reasonably believes has committed a felony and who in fact has

1 committed that felony, ~~but he~~; provided, however, the person  
2 is justified in using deadly physical force for the purpose  
3 only when he or she reasonably believes it necessary to defend  
4 himself or herself or a third person from what he or she  
5 reasonably believes to be the use or imminent use of deadly  
6 physical force.

7 "(h) (1) A guard or peace officer employed in a  
8 detention facility is justified in doing any of the following:

9 "~~(1)~~ In using a. Using deadly physical force when  
10 and to the extent that he or she reasonably believes it  
11 necessary to prevent what he or she reasonably believes to be  
12 the escape of a prisoner accused or convicted of a felony from  
13 any detention facility, or from an armed escort or guard.

14 "~~(2)~~ b. In using physical force, but not deadly  
15 physical force, in all other circumstances when and to extent  
16 that he or she reasonably believes it necessary to prevent  
17 what he or she reasonably believes to be the escape of a  
18 prisoner from a detention facility.

19 "~~(3)~~ "Detention facility" (2) As used in this  
20 subsection, detention facility means any place used for the  
21 confinement, pursuant to law, of a person who has been:

22 "a. Charged with or convicted of an offense; ~~or~~

23 "b. Charged with being or adjudicated a youthful  
24 offender, a neglected minor, or juvenile delinquent; ~~or~~

25 "c. Held for extradition; or

26 "d. Otherwise confined pursuant to an order of a  
27 criminal court."



1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.