

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2725 Session of
2012

INTRODUCED BY WATERS, THOMAS, V. BROWN, M. O'BRIEN, PARKER AND
STURLA, OCTOBER 23, 2012

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 23, 2012

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in general principles of
3 justification, further providing for definitions, for use of
4 force in self-protection, for use of force for the protection
5 of property and for use of force by persons with special
6 responsibility for care, discipline or safety of others.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 501 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a definition to read:
11 § 501. Definitions.

12 Subject to additional definitions contained in subsequent
13 provisions of this chapter which are applicable to specific
14 provisions of this chapter, the following words and phrases,
15 when used in this chapter shall have, unless the context clearly
16 indicates otherwise, the meanings given to them in this section:

17 * * *

18 "Public safety dispatcher." An individual that has fulfilled
19 all minimum training and certification standards for emergency
20 dispatchers, call takers and supervisors who work for 911

emergency communications centers or remote dispatch points in
this Commonwealth in accordance with 4 Pa. Code Ch. 120c
(relating to training and certification standards for 911
emergency communications personnel).

* * *

Section 2. Section 505(b) (1), (2), (2.2), (2.3) and (2.4) of
Title 18 are amended to read:

§ 505. Use of force in self-protection.

* * *

(b) Limitations on justifying necessity for use of force.--

(1) The use of force is not justifiable under this
section:

(i) to resist an arrest which the actor knows is
being made by a peace officer, although the arrest is
unlawful; [or]

(ii) to resist force used by the occupier or
possessor of property or by another person on his behalf,
where the actor knows that the person using the force is
doing so under a claim of right to protect the property,
except that this limitation shall not apply if:

(A) the actor is a public officer acting in the
performance of his duties or a person lawfully
assisting him therein or a person making or assisting
in a lawful arrest;

(B) the actor has been unlawfully dispossessed
of the property and is making a reentry or recaption
justified by section 507 of this title (relating to
use of force for the protection of property); or

(C) the actor believes that such force is
necessary to protect himself against death or serious

1 bodily injury[.];

2 (iii) if the actor knows that he can avoid the
3 necessity of using such force with complete safety by
4 retreating; or

5 (iv) if the actor was instructed by a peace officer
6 or public safety dispatcher to not pursue another person.

7 (2) The use of deadly force is not justifiable under
8 this section unless the actor believes that such force is
9 necessary to protect himself against death, serious bodily
10 injury, kidnapping or sexual intercourse compelled by force
11 or threat; nor is it justifiable if:

12 (i) the actor, with the intent of causing death or
13 serious bodily injury, provoked the use of force against
14 himself in the same encounter; [or]

15 (ii) the actor knows that he can avoid the necessity
16 of using such force with complete safety by retreating[,
17 except the actor is not obliged to retreat from his
18 dwelling or place of work, unless he was the initial
19 aggressor or is assailed in his place of work by another
20 person whose place of work the actor knows it to be.]; or

21 (iii) the actor was instructed by a peace officer or
22 a public safety dispatcher to not pursue another person.

23 * * *

24 (2.2) The presumption set forth in paragraph (2.1)
25 does not apply if:

26 (i) the person against whom the force is used has
27 the right to be in or is a lawful resident of the
28 dwelling, residence or vehicle, such as an owner or
29 lessee;

30 (ii) the person sought to be removed is a child or

1 grandchild or is otherwise in the lawful custody or under
2 the lawful guardianship of the person against whom the
3 protective force is used;

4 (iii) the actor is engaged in a criminal activity or
5 is using the dwelling, residence or occupied vehicle to
6 further a criminal activity; [or]

7 (iv) the person against whom the force is used is a
8 peace officer acting in the performance of his official
9 duties and the actor using force knew or reasonably
10 should have known that the person was a peace officer[.];

11 (v) the actor knows that he can avoid the necessity
12 of using such force with complete safety by retreating;
13 or

14 (vi) the actor was instructed by a peace officer or
15 public safety dispatcher to not pursue another person.

16 [(2.3) An actor who is not engaged in a criminal
17 activity, who is not in illegal possession of a firearm and
18 who is attacked in any place where the actor would have a
19 duty to retreat under paragraph (2)(ii) has no duty to
20 retreat and has the right to stand his ground and use force,
21 including deadly force, if:

22 (i) the actor has a right to be in the place where
23 he was attacked;

24 (ii) the actor believes it is immediately necessary
25 to do so to protect himself against death, serious bodily
26 injury, kidnapping or sexual intercourse by force or
27 threat; and

28 (iii) the person against whom the force is used
29 displays or otherwise uses:

30 (A) a firearm or replica of a firearm as defined

1 in 42 Pa.C.S. § 9712 (relating to sentences for
2 offenses committed with firearms); or

3 (B) any other weapon readily or apparently
4 capable of lethal use.

5 (2.4) The exception to the duty to retreat set forth
6 under paragraph (2.3) does not apply if the person against
7 whom the force is used is a peace officer acting in the
8 performance of his official duties and the actor using force
9 knew or reasonably should have known that the person was a
10 peace officer.]

11 * * *

12 Section 3. Section 507(c) of Title 18 is amended by adding
13 paragraphs to read:

14 § 507. Use of force for the protection of property.

15 * * *

16 (c) Limitations on justifiable use of force.--

17 * * *

18 (3.1) The use of force to prevent or terminate a
19 trespass is not justifiable under this section if:

20 (i) the actor knows that he can avoid the necessity
21 of using such force with complete safety by retreating;
22 or

23 (ii) the actor was instructed by a peace officer or
24 public safety dispatcher to not pursue another person.

25 * * *

26 (5) The use of deadly force is not justifiable under
27 this section if:

28 (i) the actor knows that he can avoid the necessity
29 of using such force with complete safety by retreating;
30 or

1 (ii) the actor was instructed by a peace officer or
2 public safety dispatcher to not pursue another person.

3 Section 4. Section 509 of Title 18 is amended to read:

4 § 509. Use of force by persons with special responsibility for
5 care, discipline or safety of others.

6 (a) Justifiable use of force.--The use of force upon or
7 toward the person of another is justifiable if:

8 (1) The actor is the parent or guardian or other person
9 similarly responsible for the general care and supervision of
10 a minor or a person acting at the request of such parent,
11 guardian or other responsible person and:

12 (i) the force is used for the purpose of
13 safeguarding or promoting the welfare of the minor,
14 including the preventing or punishment of his misconduct;
15 and

16 (ii) the force used is not designed to cause or
17 known to create a substantial risk of causing death,
18 serious bodily injury, disfigurement, extreme pain or
19 mental distress or gross degradation.

20 (2) The actor is a teacher or person otherwise entrusted
21 with the care or supervision for a special purpose of a minor
22 and:

23 (i) the actor believes that the force used is
24 necessary to further such special purpose, including the
25 maintenance of reasonable discipline in a school, class
26 or other group, and that the use of such force is
27 consistent with the welfare of the minor; and

28 (ii) the degree of force, if it had been used by the
29 parent or guardian of the minor, would not be
30 unjustifiable under paragraph (1)(ii).

1 (3) The actor is the guardian or other person similarly
2 responsible for the general care and supervision of an
3 incapacitated, mentally ill or mentally retarded person; and:

4 (i) the force is used for the purpose of
5 safeguarding or promoting the welfare of the
6 incapacitated, mentally ill or mentally retarded person,
7 including the prevention of his misconduct, and there is
8 no reasonable alternative to the use of such force; and

9 (ii) the force used is not designed to cause or
10 known to create a substantial risk of causing death,
11 bodily injury, disfigurement, unnecessary pain, mental
12 distress, or humiliation.

13 (4) The actor is a doctor or other therapist or a person
14 assisting him at his direction; and:

15 (i) the force is used for the purpose of
16 administering a recognized form of treatment not
17 prohibited by law of this Commonwealth which the actor
18 believes to be adapted to promoting the physical or
19 mental health of the patient; and

20 (ii) the treatment is administered with the consent
21 of the patient, or, if the patient is a minor or an
22 incapacitated person with the consent of his parent or
23 guardian or other person legally competent to consent in
24 his behalf, or the treatment is administered in an
25 emergency when the actor believes that no one competent
26 to consent can be consulted and that a reasonable person,
27 wishing to safeguard the welfare of the patient, would
28 consent.

29 (5) The actor is a warden or other authorized official
30 of a correctional institution; and:

1 (i) he believes that the force used is necessary for
2 the purpose of enforcing the lawful rules or procedures
3 of the institution, unless his belief in the lawfulness
4 of the rule or procedure sought to be enforced is
5 erroneous and his error is due to ignorance or mistake as
6 to the provisions of this title, any other provision of
7 the criminal law or the law governing the administration
8 of the institution;

9 (ii) the nature or degree of force used is not
10 forbidden by law; and

11 (iii) if deadly force is used, its use is otherwise
12 justifiable under this chapter.

13 (6) The actor is a person responsible for the safety of
14 a vessel or an aircraft or a person acting at his direction;
15 and:

16 (i) he believes that the force used is necessary to
17 prevent interference with the operation of the vessel or
18 aircraft or obstruction of the execution of a lawful
19 order, unless his belief in the lawfulness of the order
20 is erroneous and his error is due to ignorance or mistake
21 as to the law defining his authority; and

22 (ii) if deadly force is used, its use is otherwise
23 justifiable under this chapter.

24 (7) The actor is a person who is authorized or required
25 by law to maintain order or decorum in a vehicle, train or
26 other carrier or in a place where others are assembled; and:

27 (i) he believes that the force used is necessary for
28 such purpose; and

29 (ii) the force used is not designed to cause death,
30 or known to create a substantial risk of causing death,

1 bodily injury, or extreme mental distress.

2 (b) Use of force not justifiable.--The use of force upon or
3 toward the person of another is not justifiable if:

4 (1) the actor knows that he can avoid the necessity of
5 using such force with complete safety by retreating; or

6 (2) the actor was instructed by a peace officer or
7 public safety dispatcher to not pursue another person.

8 Section 5. This act shall take effect in 60 days.