

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 353

SENATE BILL 1469

AN ACT

AMENDING SECTIONS 13-406, 13-411 AND 13-419, ARIZONA REVISED STATUTES;
RELATING TO JUSTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-406, Arizona Revised Statutes, is amended to
3 read:

4 13-406. Justification; defense of a third person

5 A person is justified in threatening or using physical force or deadly
6 physical force against another to protect a third person if, ~~+~~

7 ~~1.~~ under the circumstances as a reasonable person would believe them
8 to be, such person would be justified under section 13-404 or 13-405 in
9 threatening or using physical force or deadly physical force to protect
10 himself against the unlawful physical force or deadly physical force a
11 reasonable person would believe is threatening the third person he seeks to
12 protect. ~~+~~ and

13 ~~2. A reasonable person would believe that such person's intervention~~
14 ~~is immediately necessary to protect the third person.~~

15 Sec. 2. Section 13-411, Arizona Revised Statutes, is amended to read:

16 13-411. Justification; use of force in crime prevention;
17 applicability

18 A. A person is justified in threatening or using both physical force
19 and deadly physical force against another if and to the extent the person
20 reasonably believes that physical force or deadly physical force is
21 immediately necessary to prevent the other's commission of arson of an
22 occupied structure under section 13-1704, burglary in the second or first
23 degree under section 13-1507 or 13-1508, kidnapping under section 13-1304,
24 manslaughter under section 13-1103, second or first degree murder under
25 section 13-1104 or 13-1105, sexual conduct with a minor under section
26 13-1405, sexual assault under section 13-1406, child molestation under
27 section 13-1410, armed robbery under section 13-1904 or aggravated assault
28 under section 13-1204, subsection A, paragraphs 1 and 2.

29 B. There is no duty to retreat before threatening or using physical
30 force or deadly physical force justified by subsection A of this section.

31 C. A person is presumed to be acting reasonably for the purposes of
32 this section if the person is acting to prevent WHAT THE PERSON REASONABLY
33 BELIEVES IS the IMMINENT OR ACTUAL commission of any of the offenses listed
34 in subsection A of this section.

35 D. This section ~~is not limited to~~ INCLUDES the use or threatened use
36 of physical FORCE or deadly physical force in a person's home, residence,
37 place of business, land the person owns or leases, conveyance of any kind, or
38 any other place in this state where a person has a right to be.

39 Sec. 3. Section 13-419, Arizona Revised Statutes, is amended to read:

40 13-419. Presumptions; defense of a home or occupied vehicle;
41 exceptions; definitions

42 A. A person is presumed to ~~be acting~~ reasonably BELIEVE THAT THE
43 THREAT OR USE OF PHYSICAL FORCE OR DEADLY FORCE IS IMMEDIATELY NECESSARY for
44 the purposes of sections 13-404 through 13-408, ~~and~~ section 13-418 AND
45 SECTION 13-421 if the person KNOWS OR HAS REASON TO BELIEVE THAT THE PERSON

1 AGAINST WHOM PHYSICAL FORCE OR DEADLY FORCE IS THREATENED OR USED is acting
2 ~~against another person who~~ unlawfully or forcefully enters ENTERING or HAS
3 UNLAWFULLY OR FORCEFULLY entered AND IS PRESENT IN the person's residential
4 structure or occupied vehicle. ~~, except that the presumption does not apply~~
5 ~~if:~~

6 B. FOR THE PURPOSES OF SECTIONS 13-404 THROUGH 13-408, SECTION 13-418
7 AND SECTION 13-421, A PERSON WHO IS UNLAWFULLY OR FORCEFULLY ENTERING OR WHO
8 HAS UNLAWFULLY OR FORCEFULLY ENTERED AND IS PRESENT IN A RESIDENTIAL
9 STRUCTURE OR OCCUPIED VEHICLE IS PRESUMED TO POSE AN IMMINENT THREAT OF
10 UNLAWFUL DEADLY HARM TO ANY PERSON WHO IS IN THE RESIDENTIAL STRUCTURE OR
11 OCCUPIED VEHICLE.

12 C. THE PRESUMPTIONS IN SUBSECTIONS A AND B OF THIS SECTION DO NOT
13 APPLY IF:

14 1. The person against whom physical force or deadly physical force was
15 THREATENED OR used has the right to be in or is a lawful resident of the
16 residential structure or occupied vehicle, including an owner, lessee,
17 invitee or titleholder, and an order of protection or injunction against
18 harassment has not been filed against that person.

19 2. The person against whom ~~the~~ physical force or deadly physical force
20 was THREATENED OR used is the parent or grandparent, or has legal custody or
21 guardianship, of a child or grandchild sought to be removed from the
22 residential structure or occupied vehicle.

23 3. The person who THREATENS OR uses physical force or deadly physical
24 force is engaged in an unlawful activity or is using the residential
25 structure or occupied vehicle to further an unlawful activity.

26 4. The person against whom ~~the~~ physical force or deadly physical force
27 was THREATENED OR used is a law enforcement officer who enters or attempts to
28 enter a residential structure or occupied vehicle in the performance of
29 official duties.

30 ~~B-~~ D. For the purposes of this section:

31 1. "Residential structure" has the same meaning prescribed in section
32 13-1501.

33 2. "Vehicle" means a conveyance of any kind, whether or not motorized,
34 that is designed to transport persons or property.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House April 18, 2011,

Passed the Senate March 8, 2011,

by the following vote: 48 Ayes,

by the following vote: 30 Ayes,

11 Nays, 1 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

Susan Adams
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of April, 2011,

at 9:15 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 29th day of

April, 2011,

at 1:57 o'clock P. M.

[Signature]
Governor of Arizona

S.B. 1469

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 29th day of April, 2011,

at 7:30 o'clock P. M.

[Signature]
Secretary of State