

**As Introduced**

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**H. B. No. 498**

**Representatives Lear, Robb Blasdel**

**Cosponsors: Representatives Hall, T., Dean, Fowler Arthur, Gross, Thomas, D.,  
Kishman, Mullins, Fischer, King, Hoops, Schmidt, Stephens, Willis**

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To amend sections 2307.601, 2901.05, and 2901.09 1  
and to enact sections 2901.091 and 2901.092 of 2  
the Revised Code to enact the Ohio Self-Defense 3  
Act to modify the law regarding self-defense. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2307.601, 2901.05, and 2901.09 be 5  
amended and sections 2901.091 and 2901.092 of the Revised Code 6  
be enacted to read as follows: 7

**Sec. 2307.601.** (A) As used in this section: 8

(1) "Peace officer" has the same meaning as in section 9  
2935.01 of the Revised Code. 10

(2) "Residence" has the same meaning as in section 2901.05 11  
of the Revised Code. 12

~~(2)~~ (3) "Tort action" has the same meaning as in section 13  
2307.60 of the Revised Code. 14

(4) "Reasonable force" has the same meaning as in section 15  
2901.09 of the Revised Code. 16

(B) For purposes of determining the potential liability of 17

a person in a tort action ~~related to the person's use of force~~ 18  
~~alleged to be in self-defense, defense of another, or defense of~~ 19  
~~the person's residence, the~~, a person who is not engaged in 20  
illegal activity has no duty to retreat from any place where the 21  
person is lawfully present before using or threatening to use 22  
reasonable ~~force in self-defense, defense of another, or defense~~ 23  
~~of that person's residence if that person is in a place in which~~ 24  
~~the person lawfully has a right to be.~~ 25

~~(C) A~~, including deadly force, in the same circumstances 26  
in which a use or threatened use of force, including deadly 27  
force, is authorized under section 2901.09 of the Revised Code. 28

(C) The affirmative defense of self-defense, defense of 29  
another, or defense of that person's residence is not available 30  
in a tort action to any of the following: 31

(1) A person who uses force during the person's attempted 32  
commission, commission, or escape after the commission or 33  
attempted commission of a felony offense of violence; 34

(2) A person who uses force against another, who is an 35  
aggressor, if the person initially provoked the aggressor to use 36  
force or threat of force against the person, unless either of 37  
the following apply: 38

(a) The use of force or threat of force by the aggressor 39  
is sufficient for the person's reasonable belief that the person 40  
is in imminent danger of death or great bodily harm, and the 41  
person exhausts all reasonable means of escape other than the 42  
use of force or threat of force that is likely to cause death or 43  
great bodily harm to the aggressor. 44

(b) The use of force or threat of force by the aggressor 45  
continues or resumes after the person, in good faith, withdraws 46

from physical contact and clearly indicates the desire to 47  
withdraw and terminate the use of force or threat of force by 48  
the person or the aggressor. 49

(3) A person who uses force to resist an unlawful arrest, 50  
if the person uses the force against a peace officer and the 51  
person using the force knows the person making the arrest is a 52  
peace officer; 53

(4) A person who uses force to resist a lawful arrest, if 54  
the person uses the force against a person making the arrest or 55  
against a person assisting in making the arrest; 56

(5) A person who uses force against a peace officer, or a 57  
person assisting a peace officer, if the peace officer is acting 58  
in the performance of the peace officer's official duties; 59

(6) A person who uses force while committing a violation 60  
of section 2923.13 of the Revised Code. 61

(D) The fact that an affirmative defense is not available 62  
to a person under division (C) of this section does not affect 63  
the person's right to bring any affirmative defense available to 64  
the person under the common law of this state prior to the 65  
effective date of this amendment. 66

(E) Except as provided in division (C) of this section, 67  
the immunity from civil action provided in division (A) of 68  
section 2901.092 of the Revised Code, and the requirement for an 69  
award in a civil action of reasonable attorney's fees, court 70  
costs, compensation for loss of income, and expenses incurred 71  
that is set forth in division (C) of that section, apply 72  
regarding a tort action described in this section. 73

(F) (1) In a tort action filed against a person related to 74  
the person's use or threatened use of force, including deadly 75

force, against another, the person has a right to a pretrial 76  
immunity hearing, as described in division (F) (2) of this 77  
section, regarding a claim of immunity from liability for 78  
injury, death, or loss to another based on self-defense, defense 79  
of another, or defense of that person's residence. 80

(2) A person who is a defendant in a tort action of the 81  
type described in division (F) (1) of this section who would like 82  
a pretrial hearing as described in that division shall file a 83  
pretrial motion claiming that the person used or threatened to 84  
use the force, including deadly force, in self-defense, defense 85  
of another, or defense of that person's residence. The filing of 86  
the motion establishes a prima facie claim of self-defense, 87  
defense of another, or defense of that person's residence. Upon 88  
the filing of the motion, the court shall hold a pretrial 89  
immunity hearing and shall grant the motion and hold that the 90  
person used or threatened to use the force, including deadly 91  
force, in self-defense, defense of another, or defense of that 92  
person's residence unless the party seeking to overcome the 93  
immunity provides substantial evidence that the person did not 94  
use or threaten to use the force, including deadly force, in 95  
self-defense, defense of another, or defense of that person's 96  
residence. 97

(G) Except as provided in division (C) (2) of this section, 98  
a trier of fact shall not consider the possibility of retreat as 99  
a factor in determining whether or not a person who used force 100  
in self-defense, defense of another, or defense of that person's 101  
residence reasonably believed that the force was necessary to 102  
prevent injury, loss, or risk to life or safety. 103

**Sec. 2901.05.** ~~(A)~~ (A) (1) Every person accused of an offense 104  
is presumed innocent until proven guilty beyond a reasonable 105

doubt, and the burden of proof for all elements of the offense 106  
is upon the prosecution. The burden of going forward with the 107  
evidence of an affirmative defense, and the burden of proof, by 108  
a preponderance of the evidence, for an affirmative defense 109  
other than self-defense, defense of another, or defense of the 110  
accused's residence presented as described in division (B) (1) of 111  
this section, is upon the accused. 112

(2) A person accused of an offense that involved the 113  
person's use or threatened use of force, including deadly force, 114  
against another has a right to a pretrial immunity hearing, as 115  
described in division (B) (1) of this section, regarding a claim 116  
of immunity from criminal prosecution based on self-defense, 117  
defense of another, or defense of that person's residence. 118

(B) (1) A person ~~is allowed~~ accused of an offense that 119  
involved the person's use or threatened use of force, including 120  
deadly force, against another who would like a pretrial hearing 121  
as described in division (A) (2) of this section shall file a 122  
pretrial motion claiming that the person used or threatened to 123  
~~act use~~ the force, including deadly force, in self-defense, 124  
defense of another, or defense of that person's residence. ~~If,~~ 125  
~~at~~ The filing of the motion establishes a prima facie claim of 126  
self-defense, defense of another, or defense of that person's 127  
residence. Upon the ~~trial filing of a person who is accused of~~ 128  
~~an offense that involved the person's use of force against~~ 129  
~~another, there is evidence presented that tends to support~~ 130  
motion, the court shall hold a pretrial immunity hearing and 131  
shall grant the motion and hold that the ~~accused~~ person used or 132  
threatened to use the force, including deadly force, in self- 133  
defense, defense of another, or defense of that person's 134  
residence, unless the ~~prosecution must prove beyond a reasonable~~ 135  
~~doubt~~ state proves by clear and convincing evidence that the 136

~~accused~~ person did not use or threaten to use the force, 137  
including deadly force, in self-defense, defense of another, or 138  
defense of that person's residence, as the case may be. 139

(2) Subject to division (B) (3) of this section, a person 140  
is presumed to have acted in self-defense or defense of another 141  
when using ~~defensive~~ or threatening to use deadly force that is 142  
intended or likely to cause death or great bodily harm to 143  
another if any of the following apply: 144

(a) The person against whom the ~~defensive~~ deadly force is 145  
used or threatened is in the process of unlawfully and without 146  
privilege to do so entering, or has unlawfully and without 147  
privilege to do so entered, the residence ~~or~~, occupied vehicle 148  
~~occupied by~~, or place of business or employment, of the person 149  
using or threatening to use the ~~defensive~~ deadly force, or any 150  
other place in which the person using or threatening to use the 151  
deadly force is lawfully present; 152

(b) The person against whom the deadly force is used or 153  
threatened is by force or threat removing or attempting to 154  
unlawfully remove another person against the other person's will 155  
from any place that the person using or threatening to use the 156  
deadly force is lawfully present; 157

(c) The person using or threatening to use the deadly 158  
force knows or has reason to believe that any of the conditions 159  
set forth in division (B) (2) (a) or (b) of this section are 160  
occurring or have occurred. 161

(3) The presumption set forth in division (B) (2) of this 162  
section does not apply if ~~either~~, at the time the deadly force 163  
is used or threatened, any of the following is true circumstances 164  
are present: 165

(a) The person against whom the ~~defensive~~ deadly force is 166  
used or threatened has a right to be in, ~~or is a lawful resident~~ 167  
~~of, the residence or vehicle~~ place where the person used or 168  
threatened to use the deadly force, and a protective or no- 169  
contact order is not in effect against the person against whom 170  
the deadly force is used or threatened. 171

(b) The person sought to be removed as described in 172  
division (B) (2) (b) of this section is a child or grandchild or 173  
is otherwise in the lawful custody or under the lawful 174  
guardianship of the person against whom the deadly force is used 175  
or threatened. 176

(c) The person who uses or threatens to use the ~~defensive~~ 177  
deadly force uses or threatens to use it while engaged in a 178  
criminal offense, while attempting to escape from the scene of a 179  
criminal offense that the person has committed, or while using 180  
the residence, place of business or employment, or occupied 181  
vehicle and the person is unlawfully, and without privilege to 182  
be, in that residence or vehicle further a criminal offense. 183

(d) The person against whom the deadly force is used or 184  
threatened is a law enforcement officer who has entered or is 185  
attempting to enter a residence, place of business or 186  
employment, or occupied vehicle in the lawful performance of the 187  
law enforcement officer's official duties, and either the 188  
officer identified himself or herself as a law enforcement 189  
officer in accordance with any applicable law or the person 190  
using or threatening to use the deadly force knows or reasonably 191  
should know that the person who has entered or is attempting to 192  
enter is a law enforcement officer. 193

(4) The presumption set forth in division (B) (2) of this 194  
section is a rebuttable presumption and may be rebutted by a 195

preponderance of the evidence, provided that the prosecution's 196  
burden of proof remains ~~proof beyond a reasonable doubt by clear~~ 197  
~~and convincing evidence as described in divisions (A) and~~ 198  
division (B) (1) of this section. 199

(C) As part of its charge to the jury in a criminal case, 200  
the court shall read the definitions of "reasonable doubt" and 201  
"proof beyond a reasonable doubt," contained in division (E) of 202  
this section. 203

(D) As used in this section: 204

(1) An "affirmative defense" is either of the following: 205

(a) A defense expressly designated as affirmative; 206

(b) A defense involving an excuse or justification 207  
peculiarly within the knowledge of the accused, on which the 208  
accused can fairly be required to adduce supporting evidence. 209

(2) "Dwelling" means a building or conveyance of any kind 210  
that has a roof over it and that is designed to be occupied by 211  
people lodging in the building or conveyance at night, 212  
regardless of whether the building or conveyance is temporary or 213  
permanent or is mobile or immobile. As used in this division, a 214  
building or conveyance includes, but is not limited to, an 215  
attached porch, and a building or conveyance with a roof over it 216  
includes, but is not limited to, a tent. 217

(3) "Residence" means a dwelling in which a person resides 218  
either temporarily or permanently or is visiting as a guest. 219

(4) "Vehicle" means a conveyance of any kind, whether or 220  
not motorized, that is designed to transport people or property. 221

(E) "Reasonable doubt" is present when the jurors, after 222  
they have carefully considered and compared all the evidence, 223



cannot say they are firmly convinced of the truth of the charge. 224  
It is a doubt based on reason and common sense. Reasonable doubt 225  
is not mere possible doubt, because everything relating to human 226  
affairs or depending on moral evidence is open to some possible 227  
or imaginary doubt. "Proof beyond a reasonable doubt" is proof 228  
of such character that an ordinary person would be willing to 229  
rely and act upon it in the most important of the person's own 230  
affairs. 231

**Sec. 2901.09.** (A) As used in this section, ~~"residence"~~ has 232  
and in sections 2901.091 and 2901.092 of the Revised Code: 233

(1) "Peace officer" has the same meaning as in section 234  
2901.05–2935.01 of the Revised Code. 235

(2) "Reasonable force" means the use or threatened use of 236  
force that a reasonable person would judge to be necessary to 237  
prevent an injury or loss and may include deadly force if a 238  
person reasonably believes that using or threatening to use such 239  
force is necessary to avoid injury or risk to the person's life 240  
or safety or the life or safety of another. 241

(3) "Residence" has the same meaning as in section 2901.05 242  
of the Revised Code. 243

(B) For purposes of any section of the Revised Code that 244  
sets forth a criminal offense, ~~a~~ the following apply: 245

(1) A person who is not engaged in illegal activity has no 246  
duty to retreat from any place where the person is lawfully 247  
present before using or threatening to use reasonable force, 248  
including deadly force, in self-defense, defense of another, or 249  
defense of that person's residence, as authorized under this 250  
section. 251

(2) Except as provided in division (C) (2) of this section, 252

a court or jury as trier of fact shall not consider the 253  
possibility of retreat as a factor in determining whether a 254  
person who used or threatened to use force, including deadly 255  
force, reasonably believed that such force was necessary to 256  
prevent injury, loss, or risk to life or safety. 257

~~(3) A person has no duty to retreat before using force in~~ 258  
~~self-defense, defense of another, or defense of that person's~~ 259  
~~residence if that person is in a place in which the person~~ 260  
~~lawfully has a right to be.~~ 261

~~(C) A trier of fact shall not consider the possibility of~~ 262  
~~retreat as a factor in determining whether or not a person who~~ 263  
~~used force in self-defense, defense of another, or defense of~~ 264  
~~that person's residence reasonably believed that the force was~~ 265  
~~necessary to prevent injury, loss, or risk to life or safety is~~ 266  
justified in the use of or threat to use reasonable force, 267  
including deadly force, when the person reasonably believes that 268  
such force is necessary to defend the person or another from any 269  
actual or imminent use of unlawful force. 270

(4) A person is justified in the use of or threat to use 271  
reasonable force, including deadly force, even if an alternative 272  
course of action is available. 273

(5) A person may be wrong in the estimation of the danger 274  
or the force necessary to repel the danger as long as there is a 275  
reasonable basis for the person's belief, and the person acts 276  
reasonably in response to that belief. 277

(C) The affirmative defense of self-defense, defense of 278  
another, or defense of that person's residence is not available 279  
in a criminal action to any of the following: 280

(1) A person who uses force during the person's attempted 281

commission, commission, or escape after the commission or 282  
attempted commission of a felony offense of violence; 283

(2) A person who uses force against another, who is an 284  
aggressor, if the person initially provoked the aggressor to use 285  
force or threat of force against the person, unless either of 286  
the following apply: 287

(a) The use of force or threat of force by the aggressor 288  
is sufficient for the person's reasonable belief that the person 289  
is in imminent danger of death or great bodily harm, and the 290  
person exhausts all reasonable means of escape other than the 291  
use of force or threat of force that is likely to cause death or 292  
great bodily harm to the aggressor. 293

(b) The use of force or threat of force by the aggressor 294  
continues or resumes after the person, in good faith, withdraws 295  
from physical contact and clearly indicates the desire to 296  
withdraw and terminate the use of force or threat of force by 297  
the person or the aggressor. 298

(3) A person who uses force to resist an unlawful arrest, 299  
if the person uses the force against a peace officer and the 300  
person using the force knows the person making the arrest is a 301  
peace officer; 302

(4) A person who uses force to resist a lawful arrest, if 303  
the person uses the force against a person making the arrest or 304  
against a person assisting in making the arrest; 305

(5) A person who uses force against a peace officer, or a 306  
person assisting a peace officer, if the peace officer is acting 307  
in the performance of the peace officer's official duties; 308

(6) A person who uses force while committing a violation 309  
of section 2923.13 of the Revised Code. 310

(D) The fact that an affirmative defense is not available 311  
to a person under division (C) of this section does not affect 312  
the person's right to bring any affirmative defense available to 313  
the person under the common law of this state prior to the 314  
effective date of this amendment. 315

**Sec. 2901.091.** (A) As used in this section, "forcible 316  
felony" means any of the following: 317

(1) A felony violation of section 2903.01, 2903.02, 318  
2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2907.02, 319  
2907.03, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, or 2911.12 320  
of the Revised Code; 321

(2) Any felony offense not identified in division (A) (1) 322  
of this section that involves the use or threatened use of 323  
physical force or violence against any individual. 324

(B) A person who reasonably believes that another person 325  
is committing or is about to commit a forcible felony and who 326  
uses or threatens to use reasonable force, including deadly 327  
force, as authorized under section 2901.09 of the Revised Code, 328  
is justified in using or threatening to use reasonable force, 329  
including deadly force, against the other person to prevent or 330  
halt the commission of the forcible felony. 331

**Sec. 2901.092.** (A) A person who uses or threatens to use 332  
reasonable force, including deadly force, in accordance with 333  
section 2901.09 or 2901.091 of the Revised Code shall be immune 334  
from arrest, the filing of criminal charges, criminal 335  
prosecution, or civil action arising from the person's use or 336  
threatened use of the reasonable force, including deadly force. 337

(B) A law enforcement officer may use standard 338  
investigating procedures for investigating the use or threatened 339

use of force, including deadly force, but the law enforcement 340  
officer shall not arrest a person for the person's use or 341  
threatened use of force, including deadly force, unless the law 342  
enforcement officer has probable cause to believe that the 343  
person's use or threatened use of force, including deadly force, 344  
was not justified under section 2901.09 or 2901.091 of the 345  
Revised Code. 346

(C) The court shall award treble damages including 347  
reasonable attorney's fees, court costs, compensation for loss 348  
of income, and all expenses incurred by the defendant in defense 349  
of any civil action brought by a plaintiff or criminal action 350  
brought by a prosecutor if the court finds that the defendant is 351  
immune from criminal prosecution or civil action as provided in 352  
division (A) of this section. In a criminal action, any damages 353  
awarded under this division shall be paid by the county or 354  
political subdivision that charged the defendant. 355

**Section 2.** That existing sections 2307.601, 2901.05, and 356  
2901.09 of the Revised Code are hereby repealed. 357

**Section 3.** This act shall be known as the Ohio Self- 358  
Defense Act. 359