

REFERENCE TITLE: self-defense; home protection

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1145

Introduced by
Senators Bee, Allen, Burns, Gould, Gray, Harper, Johnson, Martin;
Representatives Gorman, Paton, Stump: Senators Jarrett, Tibshraeny,
Verschoor

AN ACT

AMENDING TITLE 13, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING SECTION
13-418; 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. Title 13, chapter 4, Arizona Revised Statutes, is amended
3 by adding section 13-418, to read:

4 13-418. Justification: use of force in defense of dwelling,
5 residence or occupied motor vehicles: presumption

6 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A PERSON IS
7 JUSTIFIED IN USING PHYSICAL FORCE OR DEADLY PHYSICAL FORCE AGAINST ANOTHER
8 PERSON IF THE PERSON REASONABLY BELIEVES HIMSELF OR ANOTHER PERSON TO BE IN
9 IMMINENT PERIL OF DEATH OR SERIOUS BODILY INJURY AND THE PERSON AGAINST WHOM
10 THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE IS USED WAS IN THE PROCESS OF
11 UNLAWFULLY AND FORCEFULLY ENTERING, OR HAD UNLAWFULLY AND FORCEFULLY ENTERED,
12 A DWELLING, RESIDENCE OR OCCUPIED MOTOR VEHICLE, OR HAD REMOVED OR WAS
13 ATTEMPTING TO REMOVE ANOTHER PERSON AGAINST THE OTHER PERSON'S WILL FROM THE
14 DWELLING, RESIDENCE OR OCCUPIED MOTOR VEHICLE.

15 B. A PERSON IS PRESUMED TO BE ACTING REASONABLY IF THE PERSON IS
16 ACTING AGAINST ANOTHER PERSON WHO UNLAWFULLY AND FORCEFULLY ENTERS OR ENTERED
17 THE PERSON'S DWELLING, RESIDENCE OR OCCUPIED MOTOR VEHICLE, EXCEPT THAT THE
18 PRESUMPTION DOES NOT APPLY IF:

19 1. THE PERSON AGAINST WHOM PHYSICAL FORCE OR DEADLY PHYSICAL FORCE WAS
20 USED HAS THE RIGHT TO BE IN OR IS A LAWFUL RESIDENT OF THE DWELLING,
21 RESIDENCE OR OCCUPIED MOTOR VEHICLE, INCLUDING AN OWNER, LESSEE, INVITEE OR
22 TITLEHOLDER, AND AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT HAS
23 NOT BEEN FILED AGAINST THAT PERSON.

24 2. THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE
25 WAS USED IS THE PARENT OR GRANDPARENT, OR HAS LEGAL CUSTODY OR GUARDIANSHIP,
26 OF A CHILD OR GRANDCHILD SOUGHT TO BE REMOVED FROM THE DWELLING, RESIDENCE OR
27 OCCUPIED MOTOR VEHICLE.

28 3. THE PERSON WHO USES PHYSICAL FORCE OR DEADLY PHYSICAL FORCE IS
29 ENGAGED IN AN UNLAWFUL ACTIVITY OR IS USING THE DWELLING, RESIDENCE OR
30 OCCUPIED MOTOR VEHICLE TO FURTHER AN UNLAWFUL ACTIVITY.

31 4. THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE
32 WAS USED IS A LAW ENFORCEMENT OFFICER WHO ENTERS OR ATTEMPTS TO ENTER A
33 DWELLING, RESIDENCE OR OCCUPIED MOTOR VEHICLE IN THE PERFORMANCE OF OFFICIAL
34 DUTIES AND THE OFFICER IDENTIFIED HIMSELF AS AN OFFICER OR THE PERSON USING
35 FORCE KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE PERSON WAS A LAW
36 ENFORCEMENT OFFICER.

37 C. A PERSON HAS NO DUTY TO RETREAT BEFORE THREATENING OR USING
38 PHYSICAL FORCE OR DEADLY PHYSICAL FORCE PURSUANT TO THIS SECTION.