

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

# SENATE BILL 1145

AN ACT

AMENDING SECTIONS 13-103, 13-205 AND 13-413, ARIZONA REVISED STATUTES;  
AMENDING TITLE 13, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS  
13-418 AND 13-419; RELATING TO DEFENSES OF CRIMINAL CONDUCT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-103, Arizona Revised Statutes, is amended to  
3 read:

4 13-103. Abolition of common law offenses and affirmative  
5 defenses; definition

6 A. All common law offenses and affirmative defenses are abolished. No  
7 conduct or omission constitutes an offense or an affirmative defense unless  
8 it is an offense or an affirmative defense under this title or under another  
9 statute or ordinance.

10 B. For the purposes of this section, "affirmative defense" means a  
11 defense that is offered and that attempts to ~~justify~~ EXCUSE the criminal  
12 actions of the accused or another person for whose actions the accused may be  
13 deemed to be accountable. Affirmative defense does not include ANY  
14 JUSTIFICATION DEFENSE PURSUANT TO CHAPTER 4 OF THIS TITLE OR any defense that  
15 either denies an element of the offense charged or denies responsibility,  
16 including alibi, misidentification or lack of intent.

17 Sec. 2. Section 13-205, Arizona Revised Statutes, is amended to read:

18 13-205. Affirmative defenses; burden of proof

19 A. Except as otherwise provided by law, a defendant shall prove any  
20 affirmative defense raised by a preponderance of the evidence, ~~including any~~  
21 ~~justification defense under chapter 4 of this title.~~ JUSTIFICATION DEFENSES  
22 UNDER CHAPTER 4 OF THIS TITLE ARE NOT AFFIRMATIVE DEFENSES. JUSTIFICATION  
23 DEFENSES DESCRIBE CONDUCT THAT DOES NOT CONSTITUTE CRIMINAL OR WRONGFUL  
24 CONDUCT. IF ANY EVIDENCE OF JUSTIFICATION PURSUANT TO CHAPTER 4 OF THIS  
25 TITLE IS PRESENTED BY THE DEFENDANT, THE STATE MUST PROVE BEYOND A REASONABLE  
26 DOUBT THAT THE DEFENDANT DID NOT ACT WITH JUSTIFICATION.

27 B. This section does not affect the presumption contained in section  
28 13-411, subsection C and section 13-503.

29 Sec. 3. Section 13-413, Arizona Revised Statutes, is amended to read:

30 13-413. No civil liability for justified conduct; costs

31 A. No person in this state shall be subject to civil liability for  
32 engaging in conduct otherwise justified pursuant to ~~the provisions of~~ this  
33 chapter.

34 B. THE COURT SHALL AWARD REASONABLE ATTORNEY FEES, COSTS, COMPENSATION  
35 FOR LOST INCOME AND ALL EXPENSES INCURRED BY A DEFENDANT IN THE DEFENSE OF  
36 ANY CIVIL ACTION IF THE COURT FINDS THAT THE DEFENDANT IS IMMUNE FROM  
37 PROSECUTION PURSUANT TO SUBSECTION A.

38 Sec. 4. Title 13, chapter 4, Arizona Revised Statutes, is amended by  
39 adding sections 13-418 and 13-419, to read:

40 13-418. Justification; use of force in defense of dwelling,  
41 residence or occupied motor vehicles

42 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A PERSON IS  
43 JUSTIFIED IN THREATENING TO USE OR USING PHYSICAL FORCE OR DEADLY PHYSICAL  
44 FORCE AGAINST ANOTHER PERSON IF THE PERSON REASONABLY BELIEVES HIMSELF OR  
45 ANOTHER PERSON TO BE IN IMMINENT PERIL OF DEATH OR SERIOUS BODILY INJURY AND

1 THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE IS  
2 THREATENED OR USED IS IN THE PROCESS OF UNLAWFULLY OR FORCEFULLY ENTERING, OR  
3 HAD UNLAWFULLY OR FORCEFULLY ENTERED, A DWELLING, RESIDENCE OR OCCUPIED MOTOR  
4 VEHICLE, OR HAD REMOVED OR WAS ATTEMPTING TO REMOVE ANOTHER PERSON AGAINST  
5 THE OTHER PERSON'S WILL FROM THE DWELLING, RESIDENCE OR OCCUPIED MOTOR  
6 VEHICLE.

7 B. A PERSON HAS NO DUTY TO RETREAT BEFORE THREATENING OR USING  
8 PHYSICAL FORCE OR DEADLY PHYSICAL FORCE PURSUANT TO THIS SECTION.

9 13-419. Presumption; exceptions

10 A PERSON IS PRESUMED TO BE ACTING REASONABLY FOR THE PURPOSES OF  
11 SECTIONS 13-404 THROUGH 13-408 AND SECTION 13-418 IF THE PERSON IS ACTING  
12 AGAINST ANOTHER PERSON WHO UNLAWFULLY OR FORCEFULLY ENTERS OR ENTERED THE  
13 PERSON'S DWELLING, RESIDENCE OR OCCUPIED MOTOR VEHICLE, EXCEPT THAT THE  
14 PRESUMPTION DOES NOT APPLY IF:

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

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

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

27 4. THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE  
28 WAS USED IS A LAW ENFORCEMENT OFFICER WHO ENTERS OR ATTEMPTS TO ENTER A  
29 DWELLING, RESIDENCE OR OCCUPIED MOTOR VEHICLE IN THE PERFORMANCE OF OFFICIAL  
30 DUTIES.

31 Sec. 5. Emergency

32 This act is an emergency measure that is necessary to preserve the  
33 public peace, health or safety and is operative immediately as provided by  
34 law.