

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 637

By: Paxton

AS INTRODUCED

An Act relating to appeal of criminal prosecutions; amending 21 O.S. 2021, Section 732, which relates to justifiable homicide by officer; making language gender neutral; updating statutory language; clarifying immunity provision for persons asserting certain claim; authorizing defendant to file motion to dismiss charges under certain circumstances; granting defendant the right to file certain appeal; establishing procedures for certain appeal hearing; defining term; amending 22 O.S. 2021, Section 1053, as amended by Section 2, Chapter 209, O.S.L. 2022 (22 O.S. Supp. 2024, Section 1053), which relates to appeals taken by the state or municipality; authorizing appeals by state or municipalities under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2021, Section 732, is amended to read as follows:

Section 732. A. A peace officer, correctional officer, or any person acting by his or her command in his or her aid and assistance, is justified in using deadly force when:

1 1. The officer is acting in obedience to and in accordance with
2 any judgment of a competent court in executing a penalty of death;

3 ~~or~~

4 2. ~~In effecting~~ Effecting an arrest or preventing an escape
5 from custody following arrest and the officer reasonably believes
6 both that:

- 7 a. such force is necessary to prevent the arrest from
8 being defeated by resistance or escape, and
9 b. there is probable cause to believe that the person to
10 be arrested has committed a crime involving the
11 infliction or threatened infliction of serious bodily
12 harm, or the person to be arrested is attempting to
13 escape by use of a deadly weapon, or otherwise
14 indicates that he or she will endanger human life or
15 inflict great bodily harm unless arrested without
16 delay; ~~or~~

17 3. The officer is in the performance of his or her legal duty
18 or the execution of legal process and reasonably believes the use of
19 the force is necessary to protect ~~himself~~ the officer or others from
20 the infliction of serious bodily harm; or

21 4. The force is necessary to prevent an escape from a penal
22 institution or other place of confinement used primarily for the
23 custody of persons convicted of felonies or from custody while in
24 transit thereto or therefrom unless the officer has reason to know:

- 1 a. the person escaping is not a person who has committed
2 a felony involving violence, and
3 b. the person escaping is not likely to endanger human
4 life or to inflict serious bodily harm if not
5 apprehended.

6 B. 1. An officer who uses deadly force shall not be subject to
7 criminal prosecution or civil action for the use of such deadly
8 force unless the deadly force is determined to be unlawful.

9 2. At least ten (10) days prior to the preliminary hearing in a
10 case where an officer has been charged and is subject to criminal
11 prosecution for the unlawful use of deadly force, the officer may
12 file a motion to dismiss the charges based on a claim that under the
13 provisions of this section, the officer is not subject to criminal
14 prosecution. If the court denies the motion to dismiss, the officer
15 shall have the right to file an appeal on the ruling made by the
16 court to the Chief Judge of the county in which the case is pending,
17 or the Chief Judge made the ruling, to the Presiding Judge of the
18 Judicial Administrative District.

19 3. The appeal hearing shall address whether the deadly force
20 used by the officer was unlawful or justified and permitted pursuant
21 to the provisions of this section. If, after the appeal hearing,
22 the court concludes that the deadly force used was justified and
23 permitted under the provisions of this section, the court shall
24 enter a written order containing findings of fact and conclusions of

1 law that the officer is not subject to criminal prosecution and that
2 criminal charges and proceedings shall be dismissed and shall not be
3 filed unless newly discovered evidence or evidence not known to the
4 prosecution at the time is found or discovered. If, after the
5 appeal hearing, the court concludes that the deadly force used was
6 not justified and therefore unlawful, the court shall enter an order
7 binding the officer over for trial.

8 4. As used in this subsection, the term "criminal prosecution"
9 includes charging or prosecuting the defendant.

10 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1053, as
11 amended by Section 2, Chapter 209, O.S.L. 2022 (22 O.S. Supp. 2024,
12 Section 1053), is amended to read as follows:

13 Section 1053. Appeals to the Court of Criminal Appeals may be
14 taken by the state or a municipality in the following cases only:

15 1. Upon judgment for the defendant on quashing or setting aside
16 an indictment or information;

17 2. Upon an order of the court arresting the judgment;

18 3. Upon a question reserved by the state or a municipality;

19 4. Upon judgment for the defendant on a motion to quash for
20 insufficient evidence in a felony matter;

21 5. Upon a pretrial order, decision, or judgment suppressing or
22 excluding evidence where appellate review of the issue would be in
23 the best interests of justice;

1 6. Upon a pretrial order, decision or judgment suppressing or
2 excluding evidence in cases alleging violation of any provisions of
3 Section 13.1 of Title 21 of the Oklahoma Statutes; and

4 7. Upon a pretrial order, decision, or judgment finding that a
5 defendant is not subject to criminal prosecution under the
6 provisions of Section 732 of Title 21 of the Oklahoma Statutes; and

7 8. Upon an order, decision or judgment finding that a defendant
8 is immune from or not subject to criminal prosecution.

9 Priority shall be given to appeals taken pursuant to paragraph
10 5, 6, ~~or 7~~, or 8 of this section, and an order staying proceedings
11 shall be entered pending the outcome of the appeal.

12 SECTION 3. This act shall become effective November 1, 2025.

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