

**CRIMINAL ACTION - DEFENSE TO CIVIL
ACTION FOR DAMAGES**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Parley G. Hellewell

This act modifies the Judicial Code by adding that the next-of-kin or heirs of a person prohibited from bringing a civil action under certain circumstances are also prohibited from bringing a civil action under the same circumstances.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-11-27, as enacted by Chapter 97, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-11-27** is amended to read:

78-11-27. Defense to civil action for damages resulting from commission of crime.

(1) Any person who, with criminal intent, enters the property of another or commits a crime against the person or property of another may not recover any damages to his person or property except as required by a court order of restitution in a related criminal action, unless that person can prove by clear and convincing evidence that:

- (a) his actions did not constitute a felony; and
- (b) his culpability was less than the person from whom recovery is sought.

(2) ~~[Subsection (1) does]~~ The provisions of Subsection (1) shall apply to any next-of-kin or heirs of the person if the person is disabled or killed.

(3) Subsections (1) and (2) do not apply if the person committing or attempting to commit the crime has clearly retreated from the criminal activity.

~~[(3)]~~ (4) "Clearly retreated" means that the person committing the criminal act has fully, clearly, and immediately ceased all hostile, threatening, violent, or criminal behavior or activity.