

DEFENSE OF PROPERTY AND PERSON

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill clarifies the statute regarding civil liability for defending against criminal activity.

Highlighted Provisions:

This bill:

► clarifies that a person is justified in defending their home and family against criminal activity and may not be liable for civil damages for injury or damage occurring while doing so.

Money Appropriated in this Bill:

None

Other Special Clauses:

⚡→ [None] This bill provides an immediate effective date. ←⚡

Utah Code Sections Affected:

AMENDS:

78B-3-110, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section **78B-3-110** is amended to read:

78B-3-110. Defense to civil action for damages resulting from commission of crime.

H.B. 129



28 (1) A person may not recover from the victim of a crime for personal injury or property
29 damage if ~~[the person]~~:

30 (a) the person entered the property of the victim or the victim's family with criminal
31 intent and the injury or damage was inflicted by the victim or occurred while the person was on
32 the victim's property; ~~§→ [f] or [h] ←§~~

33 (b) the person committed a crime against the victim or the victim's family, during
34 which the damage or injury occurred ~~§→ [f] . [h] [;or]~~

35 [f] (2) **The provisions of Subsection (1) do not apply if the person can prove by**
35a **clear and**
36 **convincing evidence that [;]**

37 [f] ~~[(a)]~~ **the person's actions did not constitute a [h] crime.** ~~←§ [felony; and]~~
38 ~~[(b) the person's culpability was less than the person from whom recovery is sought.]~~
39 ~~[(3) Subsections (1) and (2) apply]~~

40 ~~§→ [(c) the victim is cleared of any wrongdoing under the provisions of Title 76, Chapter~~
41 ~~**2, Part 4, Justification Excluding Criminal Responsibility.**~~ ~~←§~~

42 (2) Subsection (1) applies to any next-of-kin, heirs, or personal representatives of the
43 person if the person acquires a disability or is killed.

44 ~~[(4)]~~ (3) Subsections (1)[;] and (2)[, and (3)] do not apply if the person committing or
45 attempting to commit the crime has clearly retreated from the criminal activity.

46 ~~[(5)]~~ (4) "Clearly retreated" means that the person committing the criminal act has
47 fully, clearly, and immediately ceased all hostile, threatening, violent, or criminal behavior or
48 activity.

48a ~~§→~~ **Section 2. Effective Date.**

48b **If approved by two-thirds of all the members elected to each house, this bill takes effect**
48c **upon approval by the governor, or the day following the constitutional time limit of Utah**
48d **Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,**
48e **the date of veto override.** ~~←§~~

Legislative Review Note
as of 2-1-12 9:57 AM

Office of Legislative Research and General Counsel