

- 31 officer, as defined in Section 53-13-103;
- 32 (ii) the officer was acting lawfully in the performance of the officer's official duties;
- 33 and
- 34 (iii)(A) the officer was identified as an officer by the officer in accordance with
- 35 applicable law; or
- 36 (B) the individual using or threatening to use force knew or reasonably should
- 37 have known that the officer was a law enforcement officer;[~~or~~]
- 38 (b) the charge filed against the defendant for which the defendant seeks a pretrial
- 39 justification hearing is an infraction, a class B or C misdemeanor, or a domestic
- 40 violence offense as defined in Section 77-36-1[~~;~~] ; or
- 41 (c) the individual that used force did not report the use of force to law enforcement as
- 42 soon as the individual was not in imminent danger.
- 43 (3)(a) Upon motion of the defendant filed in accordance with Rule 12 of the Utah Rules
- 44 of Criminal Procedure, the court shall hear evidence on the issue of justification
- 45 under this section and shall determine as a matter of fact and law whether the
- 46 defendant was justified in the use or threatened use of force.
- 47 (b) At the pretrial justification hearing, after the defendant makes a prima facie claim of
- 48 justification, the state has the burden to prove by clear and convincing evidence that
- 49 the defendant's use or threatened use of force was not justified.
- 50 (c)(i) If the court determines that the state has not met the state's burden described in
- 51 Subsection (3)(b), the court shall dismiss the charge with prejudice.
- 52 (ii) The state may appeal a court's order dismissing a charge under Subsection
- 53 (3)(c)(i) in accordance with Section 77-18a-1.
- 54 (iii) If a court determines after the pretrial justification hearing that the state has met
- 55 the state's burden described in Subsection (3)(b), the issue of justification may be
- 56 raised by the defendant to the jury at trial and, if raised by the defendant, the state
- 57 shall have the burden to prove beyond a reasonable doubt that the defendant's use
- 58 or threatened use of force was not justified.
- 59 (iv) At trial, a court's determination that the state met the state's burden under
- 60 Subsection (3)(c)(iii) is not admissible and may not be referenced by the
- 61 prosecution.

62 Section 2. Section **76-2-402** is amended to read:

63 **76-2-402 . Force in defense of person -- Forcible felony defined.**

- 64 (1) As used in this section:

- 65 (a) "Forcible felony" means aggravated assault, mayhem, aggravated murder, murder,
66 manslaughter, kidnapping and aggravated kidnapping, rape, forcible sodomy, rape of
67 a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual
68 abuse of a child, and aggravated sexual assault as defined in Chapter 5, Offenses
69 Against the Individual, and arson, robbery, and burglary as defined in Chapter 6,
70 Offenses Against Property.
- 71 (b) "Forcible felony" includes any other felony offense that involves the use of force or
72 violence against an individual that poses a substantial danger of death or serious
73 bodily injury.
- 74 (c) "Forcible felony" does not include burglary of a vehicle, as defined in Section
75 76-6-204, unless the vehicle is occupied at the time unlawful entry is made or
76 attempted.
- 77 (2)(a) An individual is justified in threatening or using force against another individual
78 when and to the extent that the individual reasonably believes that force or a threat of
79 force is necessary to defend the individual or another individual against the imminent
80 use of unlawful force.
- 81 (b) An individual is justified in using force intended or likely to cause death or serious
82 bodily injury only if the individual reasonably believes that force is necessary to
83 prevent death or serious bodily injury to the individual or another individual as a
84 result of imminent use of unlawful force, or to prevent the commission of a forcible
85 felony.
- 86 (3)(a) An individual is not justified in using force under the circumstances specified in
87 Subsection (2) if the individual:
- 88 (i) initially provokes the use of force against another individual with the intent to use
89 force as an excuse to inflict bodily harm upon the other individual;
- 90 (ii) is attempting to commit, committing, or fleeing after the commission or
91 attempted commission of a felony , unless the use of force is a reasonable
92 response to factors unrelated to the commission, attempted commission, or fleeing
93 after the commission of that felony ; or
- 94 (iii) was the aggressor or was engaged in a combat by agreement, unless the
95 individual withdraws from the encounter and effectively communicates to the
96 other individual the intent to withdraw from the encounter and, notwithstanding,
97 the other individual continues or threatens to continue the use of unlawful force.
- 98 (b) For purposes of Subsection (3)(a)(iii) the following do not, alone, constitute "combat

99 by agreement":

100 (i) voluntarily entering into or remaining in an ongoing relationship; or

101 (ii) entering or remaining in a place where one has a legal right to be.

102 (4) Except as provided in Subsection (3)(a)(iii):

103 (a) an individual does not have a duty to retreat from the force or threatened force
104 described in Subsection (2) in a place where that individual has lawfully entered or
105 remained; and

106 (b) the failure of an individual to retreat under the provisions of Subsection (4)(a) is not
107 a relevant factor in determining whether the individual who used or threatened force
108 acted reasonably.

109 (5) In determining imminence or reasonableness under Subsection (2), the trier of fact may
110 consider:

111 (a) the nature of the danger;

112 (b) the immediacy of the danger;

113 (c) the probability that the unlawful force would result in death or serious bodily injury;

114 (d) the other individual's prior violent acts or violent propensities;

115 (e) any patterns of abuse or violence in the parties' relationship; and

116 (f) any other relevant factors.

117 (6) An individual described in Subsection (2) shall report the individual's use of force to
118 law enforcement as soon as the individual is not in imminent danger.

119 Section 3. Section **76-2-405** is amended to read:

120 **76-2-405 . Force or deadly force in defense of habitation, vehicle, or place of**
121 **business or employment.**

122 (1) Except as provided in Subsection (2), an actor is justified in using force against an
123 individual when and to the extent that the actor reasonably believes that the force is
124 necessary to prevent or terminate the individual's unlawful entry into the actor's vehicle
125 or unlawful entry or attack upon the actor's habitation or place of business or
126 employment.

127 (2) An actor is justified in using force against the individual described in Subsection (1) that
128 is intended or likely to cause death or serious bodily injury to the individual only if:

129 (a)(i) the entry is made or attempted in a violent and tumultuous manner,
130 surreptitiously, or by stealth; and

131 (ii) the actor reasonably believes:

132 (A) that the entry is attempted or made for the purpose of assaulting or

- 133 perpetrating personal violence against any individual who dwells in or is
134 present in the habitation or is present in the vehicle, or place of business or
135 employment; and
- 136 (B) that the force is necessary to prevent the assault or perpetration of personal
137 violence; or
- 138 (b) the actor reasonably believes that:
- 139 (i) the entry is made or attempted for the purpose of committing a felony in the
140 habitation; and
- 141 (ii) the force is necessary to prevent the commission of the felony.
- 142 (3)(a) An actor who uses force or deadly force against an individual to defend the actor's
143 habitation is presumed for the purpose of both civil and criminal cases to have acted
144 reasonably and had a reasonable fear of imminent peril of death or serious bodily
145 injury if the entry or attempted entry is:
- 146 (i) unlawful; and
- 147 (ii) made or attempted:
- 148 (A) by use of force;
- 149 (B) in a violent and tumultuous manner;
- 150 (C) surreptitiously or by stealth; or
- 151 (D) for the purpose of committing a felony.
- 152 (b) An actor who uses force or deadly force against an individual to defend the actor's
153 vehicle or place of business or employment is presumed for the purpose of both civil
154 and criminal cases to have acted reasonably and had a reasonable fear of imminent
155 peril of death or serious bodily injury if:
- 156 (i) the actor knew or had reason to believe that the individual:
- 157 (A) entered, or attempted to enter, unlawfully and with force, the actor's occupied
158 vehicle or place of business or employment; or
- 159 (B) removed, or attempted to remove, unlawfully and with force, the actor from
160 the actor's vehicle or place of business or employment; and
- 161 (ii) the actor:
- 162 (A) did not provoke the individual; and
- 163 (B) was not otherwise engaged in criminal activity, other than a traffic offense, at
164 the time the force was used.
- 165 (c) The presumption in Subsection (3)(b) applies to an actor's use of force or deadly
166 force against an individual to protect a third person if:

- 167 (i) under the circumstances as the actor believes them to be, the actor would be
168 justified under Subsection (3)(b) in using force or deadly force to protect the actor
169 against the unlawful force or unlawful deadly force that the actor reasonably
170 believes to be threatening the third person the actor seeks to protect; and
171 (ii) the actor reasonably believes that the actor's intervention is immediately
172 necessary to protect the third person.

173 (4) An actor described in Subsection (1) shall report the actor's use of force to law
174 enforcement as soon as the actor is not in imminent danger.

175 Section 4. Section **76-2-406** is amended to read:

176 **76-2-406 . Force in defense of property -- Affirmative defense.**

177 (1) Except as provided in Section 76-2-405, an actor is justified in using force, other than
178 deadly force, against another individual when and to the extent that the actor reasonably
179 believes that force is necessary to prevent or terminate the individual's criminal
180 interference with real property or personal property:

- 181 (a) lawfully in the actor's possession;
182 (b) lawfully in the possession of a member of the actor's immediate family; or
183 (c) belonging to an individual whose property the actor has a legal duty to protect.

184 (2) In determining reasonableness under Subsection (1), the trier of fact shall, in addition to
185 any other factors, consider the following factors:

- 186 (a) the apparent or perceived extent of the damage to the property;
187 (b) property damage previously caused by the other individual;
188 (c) threats of personal injury or damage to property that have been made previously by
189 the other individual; and
190 (d) any patterns of abuse or violence between the actor and the individual.

191 (3) An actor described in Subsection (1) shall report the actor's use of force to law
192 enforcement as soon as the actor is not in imminent danger.

193 Section 5. Section **76-2-407** is amended to read:

194 **76-2-407 . Deadly force in defense of individuals on real property.**

195 (1) As used in this section, "forcible felony" means the same as that term is defined in
196 Section 76-2-402.

197 (2) An actor is justified in using force intended or likely to cause death or serious bodily
198 injury against an individual in the actor's defense of another individual on real property
199 other than the places or situations described in Section 76-2-405 if:

- 200 (a) the actor is in lawful possession of the real property;

- 201 (b) the actor reasonably believes that the force is necessary to prevent or terminate the
202 individual's trespass onto the real property;
- 203 (c) the individual's trespass is made or attempted by use of force or in a violent and
204 tumultuous manner; and
- 205 (d)(i) the actor reasonably believes:
- 206 (A) that the individual's trespass is attempted or made for the purpose of
207 committing violence against an individual on the real property; and
- 208 (B) that the force is necessary to prevent personal violence; or
- 209 (ii) the actor reasonably believes that:
- 210 (A) the individual's trespass is made or attempted for the purpose of committing a
211 forcible felony that poses imminent peril of death or serious bodily injury to an
212 individual on the real property; and
- 213 (B) the force is necessary to prevent the commission of the forcible felony.
- 214 (3) An actor who uses deadly force in defense of an individual on real property under
215 Subsection (2) is presumed for the purpose of both civil and criminal cases to have acted
216 reasonably and had a reasonable fear of imminent peril of death or serious bodily injury
217 if the trespass or attempted trespass:
- 218 (a) is unlawful; and
- 219 (b) is made or attempted:
- 220 (i) by use of force;
- 221 (ii) in a violent and tumultuous manner; or
- 222 (iii) for the purpose of committing a forcible felony.
- 223 (4) An actor described in Subsection (2) shall report the actor's use of force to law
224 enforcement as soon as the actor is not in imminent danger.

225 **Section 6. Effective Date.**

226 This bill takes effect on May 7, 2025.