

SB0105S01 compared with SB0105

~~{Omitted text}~~ shows text that was in SB0105 but was omitted in SB0105S01

inserted text shows text that was not in SB0105 but was inserted into SB0105S01

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1 **~~{Force in Defense}~~ Use of ~~{Person or Property}~~ Force Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor:



2

3 **LONG TITLE**

3

4 **General Description:**

4

5 This bill addresses ~~{the defense}~~ use of ~~{justification when using}~~ force ~~{in defense of person or property}~~ .

5

6 **Highlighted Provisions:**

6

7 This bill:

7

8 ▶ **amends when criminal intent may be transferred;**

8

9 ▶ amends the defense of justification when using force in defense of person or property to remove the actor's ability to claim the defense if the actor ~~{is charged with}~~ recklessly, or with criminal negligence, ~~{causing}~~ causes an injury to, or the death of, ~~{an innocent individual}~~ a bystander while using force that would otherwise be justified against ~~{a different}~~ another individual;

9

13 ▶ amends the pretrial justification hearing procedures to ~~{deny the hearing to}~~ allow a defendant who is charged with recklessly, or with criminal negligence, causing an injury to, or the death of, ~~{another individual}~~ a bystander while using force that the defendant ~~{alleges}~~ claims was justified against another individual to seek a ~~{different individual}~~ pretrial justification hearing; and

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17 ▶ makes technical and conforming changes.

17

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18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **76-2-105** , as enacted by **Laws of Utah 2004, Chapter 199**

25 **76-2-309** , as enacted by Laws of Utah 2021, Chapter 147

26 **76-2-401** , as last amended by Laws of Utah 2025, Chapter 284

27
28 *Be it enacted by the Legislature of the state of Utah:*

29 **Section 1. Section 76-2-105 is amended to read:**

30 **76-2-105. Transferred intent.**

31 (1) Where intentionally causing a result is an element of an offense, that element is established even if
a different ~~[person]~~ individual than the actor intended was killed, injured, or harmed, or different
property than the actor intended was damaged or otherwise affected.

35 (2) Subsection (1) does not apply to establish that an actor acted intentionally or knowingly in injuring
or causing the death of an individual if:

37 (a) the individual was not the intended target of the actor's conduct; and

38 (b) the actor caused the injury or death of the individual while using force that that actor was justified in
using against another individual under Sections 76-2-402, 76-2-403, 76-2-404, 76-2-405, 76-2-406,
or 76-2-407.

41 Section 2. Section **76-2-309** is amended to read:

42 **76-2-309. Justified use of force.**

30 (1) An individual who uses or threatens to use force as permitted in Section 76-2-402, 76-2-404,
76-2-405, 76-2-406, or 76-2-407~~[, or 76-2-408]~~ is justified in that conduct.

32 (2) The pretrial justification hearing process described in Subsections ~~[(3)(a) and (b)]~~ **(3) and (4)** does
not apply if:

34 (a)

(i) the individual against whom force was used or threatened is a law enforcement officer, as defined in
Section 53-13-103;

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- 36 (ii) the officer was acting lawfully in the performance of the officer's official duties; and
38 (iii)
40 (A) the officer was identified as an officer by the officer in accordance with applicable law; or
42 (B) the individual using or threatening to use force knew or reasonably should have known that the
officer was a law enforcement officer; ~~{ or }~~
- 45 (b) the charge filed against the defendant for which the defendant seeks a pretrial justification hearing
is an infraction, a class B or C misdemeanor, or a domestic violence offense as defined in Section
77-36-1 ~~{ } ; or }~~
- 48 ~~{(e) the defendant is charged with recklessly, or with criminal negligence, injuring, or causing the
death of, another individual while using force the defendant alleges was justified against a different
individual.}~~
- (3)
(a) Upon motion of the defendant filed in accordance with ~~{ Rule 12 of the }~~ Utah Rules of Criminal
Procedure, ~~{ Rule 12, }~~ the court shall hear evidence on the issue of justification under this section
and shall determine as a matter of fact and law whether:
- 61 (a) ~~{ }~~ the defendant was justified in the use or threatened use of force against an individual; or
63 (b) for a claim of justification in which a defendant is charged with an offense involving recklessly,
or with criminal negligence, causing an injury to, or the death of, a bystander while using force
alleged by the defendant to be justified against another individual, the defendant:
- 67 (i) was justified in using force against the other individual; and
68 (ii) was not acting recklessly, or with criminal negligence, when causing the injury to, or the death of,
the bystander.
- 52 ~~{(b)}~~ (4)
(a) At ~~{ the }~~ a pretrial justification hearing held under Subsection (3), ~~{ after }~~ the defendant ~~{ makes }~~ has
the initial burden to make a prima facie claim ~~{ of justification, the state has the burden to prove by~~
~~clear and convincing evidence that the defendant's use or threatened use of force was not justified. }~~ :
- 74 (i) that the defendant was justified in using, or threatening to use, force against an individual; or
76 (ii) if the defendant is charged with recklessly, or with criminal negligence, causing an injury to, or
the death of, a bystander while using force against another individual, that the defendant was:
- 79 (A) justified in using force against the other individual; and
80

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(B) was not reckless, or acting in a criminally negligent manner, in causing the injury to, or the death of, the bystander.

82 (b) If the defendant makes the prima facie claim described in Subsection (4)(a), the burden shifts to the state to prove by clear and convincing evidence that:

84 (i) for claims under Subsection (4)(a)(i), the defendant was not justified in using, or threatening to use, force against the individual; or

86 (ii) for claims under Subsection (4)(a)(ii), that the defendant:

87 (A) was not justified in using force against the other individual; or

88 (B) was reckless, or acted in a criminally negligent manner, in causing the injury to, or the death of, the bystander.

90 (5)

55 [(e)] (a)

[(i)] If the court determines that the state has not met the state's burden described in Subsection [(3)] (b) (4)(b), the court shall dismiss the charge with prejudice.

57 [(ii)] (b) The state may appeal a court's order dismissing a charge under Subsection [(3)(e)(i)] (5)(a) in accordance with Section 77-18a-1.

59 [(iii)] (c) If a court determines after the pretrial justification hearing that the state has met the state's burden described in Subsection [(3)(b)] (4)(b), the issue of justification may be raised by the defendant to the jury at trial and, if raised by the defendant, the state shall have the burden to prove beyond a reasonable doubt that for claims under Subsection (4)(a)(i) the defendant's use or threatened use of force was not justified.

64 [(iv)] (d) At trial, a court's determination that the state met the state's burden under Subsection [(3)(e)] (iii) (4)(b) is not admissible and may not be referenced by the prosecution.

103 Section 3. Section **76-2-401** is amended to read:

104 **76-2-401. Justification as defense -- When allowed.**

69 (1) Conduct ~~[which]~~ that is justified is a defense to prosecution for any offense based on the conduct~~[-~~
The defense of justification] ~~{-}~~ and may be claimed:

71 (a) when the actor's conduct is in defense of persons or property under the circumstances described in ~~[Sections]~~ Section 76-2-402~~[through 76-2-406 of this part]~~ , 76-2-403, 76-2-404, 76-2-405, 76-2-406, or 76-2-407;

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(b) when the actor's conduct is reasonable and in fulfillment of [~~his~~] the actor's duties as a governmental officer or employee;

76 (c) when the actor's conduct is reasonable discipline of minors by parents, guardians, teachers, or other persons in loco parentis, as limited by Subsection (2);

78 (d) when the actor's conduct is reasonable discipline of persons in custody under the laws of the state; or

80 (e) when the actor's conduct is justified for any other reason under the laws of this state.

81 (2) The defense of justification is not available under:

82 (a) Subsection (1)(a) when an actor is justified in using force against an individual under Section 76-2-402, 76-2-403, 76-2-404, 76-2-405, 76-2-406, or 76-2-407, but { ~~is charged with an offense involving~~ } recklessly, or with criminal negligence, { ~~causing~~ } causes an injury to, or the death of, { ~~another individual~~ } a bystander; or

86 (b) [~~-~~]Subsection (1)(c) [~~is not available~~]-if the offense charged involves causing serious bodily injury, as defined in Section 76-1-101.5, serious injury, as defined in Section 76-5-109, or the death of the minor.

125 Section 4. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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