

HB0133 compared with HB0133S01

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **76-2-309** , as enacted by Laws of Utah 2021, Chapter 147

18 ~~{76-2-402, as last amended by Laws of Utah 2022, Chapter 181}~~

19 ~~{76-2-405, as last amended by Laws of Utah 2024, Chapter 189}~~

20 ~~{76-2-406, as last amended by Laws of Utah 2025, Chapter 199}~~

21 ~~{76-2-407, as last amended by Laws of Utah 2024, Chapter 189}~~

22

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

24 Section 1. Section **76-2-309** is amended to read:

25 **76-2-309. Justified use of force.**

26 (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, 76-2-407, or 76-2-408 is justified in that conduct.

28 (2) The pretrial justification hearing process described in Subsections (3)(a) and (b) does not apply if:

30 (a)

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

32 (ii) the officer was acting lawfully in the performance of the officer's official duties; and

34 (iii)

(A) the officer was identified as an officer by the officer in accordance with applicable law; or

36 (B) the individual using or threatening to use force knew or reasonably should have known that the
officer was a law enforcement officer; ~~[{-}{f} or]~~

38 (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

41 ~~{(c) {the defendant used force and did not report the use of that force to law enforcement as soon as the
defendant was not in imminent danger.} }~~

41 (c)

43 ~~{(3)}~~

~~{(a)}~~ the defendant used force intended or likely to cause death or serious bodily injury against an
individual;

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- 43 (ii) the individual described in Subsection (2)(c)(i) died as a result of the defendant's use of force used
44 against the individual; and
- 45 (iii) the defendant did not report, or cause another individual to report, the defendant's use of force
46 described in Subsection (2)(c)(i) to a 911 emergency response service or law enforcement within 24
47 hours after using the force.
- 48 (3)
- 49 (a) Upon motion of the defendant filed in accordance with Rule 12 of the Utah Rules of Criminal
50 Procedure, the court shall hear evidence on the issue of justification under this section and shall
51 determine as a matter of fact and law whether the defendant was justified in the use or threatened
52 use of force.
- 53 (b) At the pretrial justification hearing ~~], after the defendant makes a prima facie claim of justification,~~
54 the state has the burden to prove by clear and convincing evidence that the defendant's use or
55 threatened use of force was not justified if:
- 56 (i) the defendant makes a prima facie claim of justification; or
57 (ii) the defendant reported, or caused another individual to report, the defendant's use of force to a 911
58 emergency response service or law enforcement within 24 hours after using the force.
- 59 (c)
- 60 (i) If the court determines that the state has not met the state's burden described in Subsection (3)(b), the
61 court shall dismiss the charge with prejudice.
- 62 (ii) The state may appeal a court's order dismissing a charge under Subsection (3)(c)(i) in accordance
63 with Section 77-18a-1.
- 64 (iii) If a court determines after the pretrial justification hearing that the state has met the state's burden
65 described in Subsection (3)(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 the defendant's use or threatened use of force was not justified.
- 66 (iv) At trial, a court's determination that the state met the state's burden under Subsection (3)(c)(iii) is
not admissible and may not be referenced by the prosecution.

~~{Section 2. Section 76-2-402 is amended to read: }~~

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

- (1) As used in this section:

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- (a) "Forcible felony" means aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Chapter 5, Offenses Against the Individual, and arson, robbery, and burglary as defined in Chapter 6, Offenses Against Property.
- 71 (b) "Forcible felony" includes any other felony offense that involves the use of force or violence against an individual that poses a substantial danger of death or serious bodily injury.
- 74 (c) "Forcible felony" does not include burglary of a vehicle, as defined in Section 76-6-204, unless the vehicle is occupied at the time unlawful entry is made or attempted.
- 77 (2)
- (a) An individual is justified in threatening or using force against another individual when and to the extent that the individual reasonably believes that force or a threat of force is necessary to defend the individual or another individual against the imminent use of unlawful force.
- 81 (b) An individual is justified in using force intended or likely to cause death or serious bodily injury only if the individual reasonably believes that force is necessary to prevent death or serious bodily injury to the individual or another individual as a result of imminent use of unlawful force, or to prevent the commission of a forcible felony.
- 86 (3)
- (a) An individual is not justified in using force under the circumstances specified in Subsection (2) if the individual:
- 88 (i) initially provokes the use of force against another individual with the intent to use 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 attempted commission of a felony , unless the use of force is a reasonable response to factors unrelated to the commission, attempted commission, or fleeing after the commission of that felony ; or
- 94 (iii) was the aggressor or was engaged in a combat by agreement, unless the individual withdraws from the encounter and effectively communicates to the other individual the intent to withdraw from the encounter and, notwithstanding, 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 by agreement":

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- 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 described in
Subsection (2) in a place where that individual has lawfully entered or remained; and
106 (b) the failure of an individual to retreat under the provisions of Subsection (4)(a) is not a relevant
factor in determining whether the individual who used or threatened force acted reasonably.
109 (5) In determining imminence or reasonableness under Subsection (2), the trier of fact may 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 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 business or
employment.**

- 122 (1) Except as provided in Subsection (2), an actor is justified in using force against an individual when
and to the extent that the actor reasonably believes that the force is necessary to prevent or terminate
the individual's unlawful entry into the actor's vehicle or unlawful entry or attack upon the actor's
habitation or place of business or employment.
127 (2) An actor is justified in using force against the individual described in Subsection (1) that is intended
or likely to cause death or serious bodily injury to the individual only if:
129 (a)
131 (i) the entry is made or attempted in a violent and tumultuous manner, surreptitiously, or by stealth; and
132 (ii) the actor reasonably believes:
(A) that the entry is attempted or made for the purpose of assaulting or perpetrating personal violence
against any individual who dwells in or is present in the habitation or is present in the vehicle, or
place of business or employment; and

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- 136 (B) that the force is necessary to prevent the assault or perpetration of personal 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 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 habitation is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily 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 vehicle or place of business or employment is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent 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 vehicle or place of business or employment; or
159 (B) removed, or attempted to remove, unlawfully and with force, the actor from 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 the time the force was used.
- 165 (c) The presumption in Subsection (3)(b) applies to an actor's use of force or deadly 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 justified under Subsection (3)(b) in using force or deadly force to protect the actor against the unlawful force or

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unlawful deadly force that the actor reasonably 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 necessary to protect the third person.

173 (4) An actor described in Subsection (1) shall report the actor's use of force to law 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 deadly force, against another individual when and to the extent that the actor reasonably believes that force is necessary to prevent or terminate the individual's criminal interference with:

181 (a) real or personal property lawfully in the actor's possession;

182 (b) real or personal property lawfully in the possession of a member of the actor's immediate family;

184 (c) real or personal property belonging to an individual whose property the actor has a legal duty to protect; or

186 (d) personal property that the actor reasonably believes belongs to another person and that individual's criminal interference is meant to deprive the other person of the person's personal property.

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

191 (a) the apparent or perceived extent of the damage to the property;

192 (b) property damage previously caused by the other individual;

193 (c) threats of personal injury or damage to property that have been made previously by the other individual; and

195 (d) any patterns of abuse or violence between the actor and the individual.

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

198 ~~{Section 5. Section 76-2-407 is amended to read: }~~

199 **76-2-407. Deadly force in defense of individuals on real property.**

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

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- (2) An actor is justified in using force intended or likely to cause death or serious bodily injury against an individual in the actor's defense of another individual on real property other than the places or situations described in Section 76-2-405 if:
- 205 (a) the actor is in lawful possession of the real property;
- 206 (b) the actor reasonably believes that the force is necessary to prevent or terminate the individual's trespass onto the real property;
- 208 (c) the individual's trespass is made or attempted by use of force or in a violent and tumultuous manner; and
- 210 (d)
- (i) the actor reasonably believes:
- 211 (A) that the individual's trespass is attempted or made for the purpose of committing violence against an individual on the real property; and
- 213 (B) that the force is necessary to prevent personal violence; or
- 214 (ii) the actor reasonably believes that:
- 215 (A) the individual's trespass is made or attempted for the purpose of committing a forcible felony that poses imminent peril of death or serious bodily injury to an individual on the real property; and
- 218 (B) the force is necessary to prevent the commission of the forcible felony.
- 219 (3) An actor who uses deadly force in defense of an individual on real property under Subsection (2) is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the trespass or attempted trespass:
- 223 (a) is unlawful; and
- 224 (b) is made or attempted:
- 225 (i) by use of force;
- 226 (ii) in a violent and tumultuous manner; or
- 227 (iii) for the purpose of committing a forcible felony.
- 228 (4) An actor described in Subsection (2) shall report the actor's use of force to law enforcement as soon as the actor is not in imminent danger.

71 Section 2. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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