

Force in Defense of Person or Property Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor:

LONG TITLE**General Description:**

This bill addresses the defense of justification when using force in defense of person or property.

Highlighted Provisions:

This bill:

- 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 an injury to, or the death of, an innocent individual while using force that would otherwise be justified against a different individual;

- amends the pretrial justification hearing procedures to deny the hearing to defendant who is charged with recklessly, or with criminal negligence, causing an injury to, or the death of, another individual while using force the defendant alleges was justified against a different individual; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

76-2-309 . Justified use of force.

(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.

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

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

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

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

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

(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

(c) 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 the defendant was justified in the use or threatened use of force.

(b) At the pretrial justification hearing, after the defendant makes 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.

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

(ii) The state may appeal a court's order dismissing a charge under Subsection (3)(c)(i) in accordance with Section 77-18a-1.

(iii) If a court determines after the pretrial justification hearing that the state has met the state's burden 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.

(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 **76-2-401** is amended to read:

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

(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:

- (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;
 - (b) when the actor's conduct is reasonable and in fulfillment of [~~his~~] the actor's duties as a governmental officer or employee;
 - (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);
 - (d) when the actor's conduct is reasonable discipline of persons in custody under the laws of the state; or
 - (e) when the actor's conduct is justified for any other reason under the laws of this state.
- (2) The defense of justification is not available under:
- (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 an injury to, or the death of, another individual; or
 - (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.

Section 3. **Effective Date.**

This bill takes effect on May 6, 2026.