

Kathleen A. Riebe proposes the following substitute bill:

Use of Force Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor:

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LONG TITLE

General Description:

This bill addresses use of force.

Highlighted Provisions:

This bill:

- amends when criminal intent may be transferred;
- 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 recklessly, or with criminal negligence, causes an injury to, or the death of, a bystander while using force that would otherwise be justified against another individual;
- amends the pretrial justification hearing procedures to allow a defendant who is charged with recklessly, or with criminal negligence, causing an injury to, or the death of, a bystander while using force that the defendant claims was justified against another individual to seek a pretrial justification hearing; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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
 32 established even if a different [person] individual than the actor intended was killed,
 33 injured, or harmed, or different property than the actor intended was damaged or
 34 otherwise affected.

35 (2) Subsection (1) does not apply to establish that an actor acted intentionally or knowingly
 36 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
 39 was justified in using against another individual under Sections 76-2-402, 76-2-403,
 40 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.**

43 (1) An individual who uses or threatens to use force as permitted in Section 76-2-402,
 44 76-2-404, 76-2-405, 76-2-406, or 76-2-407~~[, or 76-2-408]~~ is justified in that conduct.

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

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

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

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

53 (B) the individual using or threatening to use force knew or reasonably should
 54 have known that the officer was a law enforcement officer; or

55 (b) the charge filed against the defendant for which the defendant seeks a pretrial
 56 justification hearing is an infraction, a class B or C misdemeanor, or a domestic
 57 violence offense as defined in Section 77-36-1.

58 ~~(3)[(a)]~~ Upon motion of the defendant filed in accordance with Rule 12 of the Utah
 59 Rules of Criminal Procedure, the court shall hear evidence on the issue of
 60 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
 62 individual; or

63 (b) for a claim of justification in which a defendant is charged with an offense involving
 64 recklessly, or with criminal negligence, causing an injury to, or the death of, a
 65 bystander while using force alleged by the defendant to be justified against another
 66 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
 69 to, or the death of, the bystander.

70 ~~[(b)]~~ (4)(a) At ~~[the]~~ a pretrial justification hearing held under Subsection (3), ~~[after]~~ the
 71 defendant ~~[makes]~~ has the initial burden to make a prima facie claim~~[-of justification,~~
 72 ~~the state has the burden to prove by clear and convincing evidence that the~~
 73 ~~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
 75 individual; or

76 (ii) if the defendant is charged with recklessly, or with criminal negligence, causing
 77 an injury to, or the death of, a bystander while using force against another
 78 individual, that the defendant was:

79 (A) justified in using force against the other individual; and

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

82 (b) If the defendant makes the prima facie claim described in Subsection (4)(a), the
 83 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
 85 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
 89 to, or the death of, the bystander.

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

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

95 ~~[(iii)]~~ (c) If a court determines after the pretrial justification hearing that the state has met
 96 the state's burden described in Subsection ~~[(3)(b)]~~ (4)(b), the issue of justification may

97 be raised by the defendant to the jury at trial and, if raised by the defendant, the state
 98 shall have the burden to prove beyond a reasonable doubt that for claims under
 99 Subsection (4)(a)(i) the defendant's use or threatened use of force was not justified.

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

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

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

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

107 (a) when the actor's conduct is in defense of persons or property under the circumstances
 108 described in [~~Sections~~] Section 76-2-402[~~through 76-2-406 of this part~~], 76-2-403,
 109 76-2-404, 76-2-405, 76-2-406, or 76-2-407;

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

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

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

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

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

118 (a) Subsection (1)(a) when an actor is justified in using force against an individual under
 119 Section 76-2-402, 76-2-403, 76-2-404, 76-2-405, 76-2-406, or 76-2-407, but
 120 recklessly, or with criminal negligence, causes an injury to, or the death of, a
 121 bystander; or

122 (b) [~~]Subsection (1)(c) [is not available]~~]if the offense charged involves causing serious
 123 bodily injury, as defined in Section 76-1-101.5, serious injury, as defined in Section
 124 76-5-109, or the death of the minor.

125 Section 4. **Effective Date.**

126 This bill takes effect on May 6, 2026.