

Part 4 Justification Excluding Criminal Responsibility

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

- (1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:
- (a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections 76-2-402 through 76-2-406 of this part;
 - (b) when the actor's conduct is reasonable and in fulfillment of his 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 under 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.

Amended by Chapter 284, 2025 General Session

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

- (1) As used in this section:
- (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.
 - (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.
 - (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.
- (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.
 - (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.
- (3)
- (a) An individual is not justified in using force under the circumstances specified in Subsection (2) if the individual:
 - (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;
 - (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

- (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.
- (b) For purposes of Subsection (3)(a)(iii) the following do not, alone, constitute "combat by agreement":
 - (i) voluntarily entering into or remaining in an ongoing relationship; or
 - (ii) entering or remaining in a place where one has a legal right to be.
- (4) Except as provided in Subsection (3)(a)(iii):
 - (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
 - (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.
- (5) In determining imminence or reasonableness under Subsection (2), the trier of fact may consider:
 - (a) the nature of the danger;
 - (b) the immediacy of the danger;
 - (c) the probability that the unlawful force would result in death or serious bodily injury;
 - (d) the other individual's prior violent acts or violent propensities;
 - (e) any patterns of abuse or violence in the parties' relationship; and
 - (f) any other relevant factors.

Amended by Chapter 181, 2022 General Session

76-2-403 Force in arrest or temporary detention..

A person is justified in using any force, except deadly force, which the person reasonably believes to be necessary to effect an arrest or temporary detention or to defend the person's self or another from bodily harm while making an arrest or temporary detention.

Amended by Chapter 199, 2025 General Session

Amended by Chapter 302, 2025 General Session

76-2-404 Law enforcement officer use of deadly force.

- (1) As used in this section:
 - (a) "Deadly force" means force that creates or is likely to create, or that the individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an individual.
 - (b) "Officer" means an officer described in Section 53-13-102.
 - (c) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.
- (2) The defense of justification applies to the use of deadly force by an officer, or an individual acting by the officer's command in providing aid and assistance, when:
 - (a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-113(2), (3), or (4);
 - (b) effecting an arrest or preventing an escape from custody following an arrest, if:
 - (i) the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

- (ii)
 - (A) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or
 - (B) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to an individual other than the suspect if apprehension is delayed; or
 - (c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect.
- (3) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (2)(b) or (2)(c).

Amended by Chapter 181, 2022 General Session

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

- (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.
- (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:
 - (a)
 - (i) the entry is made or attempted in a violent and tumultuous manner, surreptitiously, or by stealth; and
 - (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
 - (B) that the force is necessary to prevent the assault or perpetration of personal violence; or
 - (b) the actor reasonably believes that:
 - (i) the entry is made or attempted for the purpose of committing a felony in the habitation; and
 - (ii) the force is necessary to prevent the commission of the felony.
- (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:
 - (i) unlawful; and
 - (ii) made or attempted:
 - (A) by use of force;
 - (B) in a violent and tumultuous manner;
 - (C) surreptitiously or by stealth; or
 - (D) for the purpose of committing a felony.
 - (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:
 - (i) the actor knew or had reason to believe that the individual:

- (A) entered, or attempted to enter, unlawfully and with force, the actor's occupied vehicle or place of business or employment; or
- (B) removed, or attempted to remove, unlawfully and with force, the actor from the actor's vehicle or place of business or employment; and
- (ii) the actor:
 - (A) did not provoke the individual; and
 - (B) was not otherwise engaged in criminal activity, other than a traffic offense, at the time the force was used.
- (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:
 - (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 unlawful deadly force that the actor reasonably believes to be threatening the third person the actor seeks to protect; and
 - (ii) the actor reasonably believes that the actor's intervention is immediately necessary to protect the third person.

Amended by Chapter 189, 2024 General Session

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

- (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:
 - (a) real or personal property lawfully in the actor's possession;
 - (b) real or personal property lawfully in the possession of a member of the actor's immediate family;
 - (c) real or personal property belonging to an individual whose property the actor has a legal duty to protect; or
 - (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.
- (2) In determining reasonableness under Subsection (1), the trier of fact shall, in addition to any other factors, consider the following factors:
 - (a) the apparent or perceived extent of the damage to the property;
 - (b) property damage previously caused by the other individual;
 - (c) threats of personal injury or damage to property that have been made previously by the other individual; and
 - (d) any patterns of abuse or violence between the actor and the individual.

Amended by Chapter 199, 2025 General Session

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

- (1) As used in this section, "forcible felony" means the same as that term is defined in Section 76-2-402.
- (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:
 - (a) the actor is in lawful possession of the real property;

- (b) the actor reasonably believes that the force is necessary to prevent or terminate the individual's trespass onto the real property;
 - (c) the individual's trespass is made or attempted by use of force or in a violent and tumultuous manner; and
 - (d)
 - (i) the actor reasonably believes:
 - (A) that the individual's trespass is attempted or made for the purpose of committing violence against an individual on the real property; and
 - (B) that the force is necessary to prevent personal violence; or
 - (ii) the actor reasonably believes that:
 - (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
 - (B) the force is necessary to prevent the commission of the forcible felony.
- (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:
- (a) is unlawful; and
 - (b) is made or attempted:
 - (i) by use of force;
 - (ii) in a violent and tumultuous manner; or
 - (iii) for the purpose of committing a forcible felony.

Amended by Chapter 189, 2024 General Session

76-2-408 Officer use of force -- Investigations.

- (1) As used in this section:
- (a) "Dangerous weapon" means a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to an individual.
 - (b) "Deadly force" means a force that creates or is likely to create, or that the individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an individual.
 - (c) "In custody" means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:
 - (i) a detention to secure attendance as a witness in a criminal case;
 - (ii) an arrest for or charging with a crime and committing for trial;
 - (iii) committing for contempt, upon civil process, or by other authority of law; or
 - (iv) sentencing to imprisonment on conviction of a crime.
 - (d) "Investigating agency" means a law enforcement agency, the county or district attorney's office, or an interagency task force composed of officers from multiple law enforcement agencies.
 - (e) "Officer" means an officer described in Section 53-13-102.
 - (f) "Officer-involved critical incident" means any of the following:
 - (i) an officer's use of deadly force;
 - (ii) an officer's use of a dangerous weapon against an individual who causes injury to any individual;

- (iii) death or serious bodily injury to any individual, other than the officer, resulting from an officer's:
 - (A) use of a motor vehicle while the officer is on duty; or
 - (B) use of a government vehicle while the officer is off duty;
- (iv) the death of an individual who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the individual's death; or
- (v) the death of or serious bodily injury to an individual not in custody, other than an officer, resulting from an officer's attempt to prevent an individual's escape from custody, to make an arrest, or otherwise to gain physical control of an individual.
- (g) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.
- (2) When an officer-involved critical incident occurs:
 - (a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and
 - (b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:
 - (i) jointly designate an investigating agency for the officer-involved critical incident; and
 - (ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.
- (3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.
- (4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.
- (5) Each law enforcement agency that is part of or administered by the state or any of the state's political subdivisions shall adopt and post on the agency's publicly accessible website:
 - (a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in the agency's jurisdiction and one of the agency's officers is alleged to have caused or contributed to the officer-involved incident; and
 - (b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in the agency's jurisdiction are conducted professionally, thoroughly, and impartially.
- (6) Once a criminal investigation is turned over from law enforcement, the county or district attorney's findings or analyses into an officer's use of force shall be completed within 180 days of the turnover. If the findings or analyses is not published within 180 days of the turnover, the county or district attorney shall post a public statement on the county or district attorney's website stating a reasonable estimate when the findings or analyses will be complete and the reason for the delay.
- (7) Subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, the county or district attorney's resulting findings or analyses shall be published on the county or district attorney's website within five business days of completion.

Amended by Chapter 130, 2022 General Session
Amended by Chapter 181, 2022 General Session

76-2-409 Battered person mitigation.

- (1) As used in this section:
 - (a) "Abuse" means the same as that term is defined in Section 78B-7-102.
 - (b) "Cohabitant" means:
 - (i) the same as that term is defined in Section 78B-7-102; or
 - (ii) the relationship of a minor and a natural parent, an adoptive parent, a stepparent, or an individual living with the minor's natural parent as if a stepparent to the minor.
- (2)
 - (a) An individual is entitled to battered person mitigation if:
 - (i) the individual committed a criminal offense that was not legally justified;
 - (ii) the individual committed the criminal offense against a cohabitant who demonstrated a pattern of abuse against the individual or another cohabitant of the individual; and
 - (iii) the individual reasonably believed that the criminal offense was necessary to end the pattern of abuse.
 - (b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a reasonable person in the individual's circumstances, as the individual's circumstances are perceived by the individual.
- (3) An individual claiming mitigation under Subsection (2)(a) has the burden of proving, by clear and convincing evidence, each element that would entitle the individual to mitigation under Subsection (2)(a).
- (4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of offense of which the individual is convicted.
- (5)
 - (a) If the trier of fact is a jury, an individual is not entitled to mitigation under Subsection (2)(a) unless the jury:
 - (i) finds the individual proved, in accordance with Subsection (3), that the individual is entitled to mitigation by unanimous vote; and
 - (ii) returns a special verdict for the reduced charge at the same time the jury returns the general verdict.
 - (b) A nonunanimous vote by the jury on the question of mitigation under Subsection (2)(a) does not result in a hung jury.
- (6) An individual intending to claim mitigation under Subsection (2)(a) at the individual's trial shall give notice of the individual's intent to claim mitigation under Subsection (2)(a) to the prosecuting agency at least 30 days before the individual's trial.

Enacted by Chapter 411, 2020 General Session