Chapter 2
Principles of Criminal Responsibility

Part 1
Culpability Generally

76-2-101 Requirements of criminal conduct and criminal responsibility.

(1)
(a) A person is not guilty of an offense unless the person's conduct is prohibited by law; and
(b)
(i) the person acts intentionally, knowingly, recklessly, with criminal negligence, or with a mental state otherwise specified in the statute defining the offense, as the definition of the offense requires; or
(ii) the person's acts constitute an offense involving strict liability.
(2) These standards of criminal responsibility do not apply to the violations set forth in Title 41, Chapter 6a, Traffic Code, unless specifically provided by law.

Amended by Chapter 2, 2005 General Session

76-2-102 Culpable mental state required -- Strict liability.

Every offense not involving strict liability shall require a culpable mental state, and when the definition of the offense does not specify a culpable mental state and the offense does not involve strict liability, intent, knowledge, or recklessness shall suffice to establish criminal responsibility. An offense shall involve strict liability if the statute defining the offense clearly indicates a legislative purpose to impose criminal responsibility for commission of the conduct prohibited by the statute without requiring proof of any culpable mental state.

Amended by Chapter 90, 1983 General Session

76-2-103 Definitions.

A person engages in conduct:
(1) Intentionally, or with intent or willfully with respect to the nature of his conduct or to a result of his conduct, when it is his conscious objective or desire to engage in the conduct or cause the result.
(2) Knowingly, or with knowledge, with respect to his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or the existing circumstances. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.
(3) Recklessly with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.
(4) With criminal negligence or is criminally negligent with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of a nature and degree that the failure to perceive it constitutes a gross deviation from the standard

of care that an ordinary person would exercise in all the circumstances as viewed from the actor's standpoint.

Amended by Chapter 229, 2007 General Session

76-2-104 Culpable mental state -- Higher mental states included.

(1) If acting with criminal negligence is sufficient to establish the culpable mental state for an element of an offense, that element is also established if a person acts intentionally, knowingly, or recklessly.
(2) If acting recklessly is sufficient to establish the culpable mental state for an element of an offense, that element is also established if a person acts intentionally or knowingly.
(3) If acting knowingly is sufficient to establish the culpable mental state for an element of an offense, that element is also established if a person acts intentionally.

Amended by Chapter 75, 1998 General Session

76-2-105 Transferred intent.

Where intentionally causing a result is an element of an offense, that element is established even if a different person than the actor intended was killed, injured, or harmed, or different property than the actor intended was damaged or otherwise affected.

Enacted by Chapter 199, 2004 General Session

76-2-106 Commission of offense with aid of unmanned aircraft system.

(1) As used in this section:
  (a) "Unmanned aircraft" means the same as that term is defined in Section 72-10-102.
  (b) "Unmanned aircraft system" means the same as that term is defined in Section 72-10-102.
(2) An actor may be found guilty of an offense if:
  (a) the actor commits the offense with the aid of an unmanned aircraft; and
  (b) the unmanned aircraft system for the unmanned aircraft is under the actor's control at the time of the offense.

Amended by Chapter 216, 2023 General Session

76-2-107 Commission of offense with aid of generative artificial intelligence.

(1) As used in this section, "generative artificial intelligence" means the same as that term is defined in Section 13-77-101.
(2) An actor may be found guilty of an offense if:
  (a) the actor commits the offense with the aid of a generative artificial intelligence; or
  (b) the actor intentionally prompts or otherwise causes a generative artificial intelligence to commit the offense.

Enacted by Chapter 186, 2024 General Session

Part 2
Criminal Responsibility for Conduct of Another

76-2-201 Definitions.

As used in this part:

(1) "Agent" means any director, officer, employee, or other person authorized to act in behalf of a corporation or association.

(2) "High managerial agent" means:

(a) a partner in a partnership;

(b) an officer of a corporation or association;

(c) an agent of a corporation or association who has duties of such responsibility that the agent's conduct reasonably may be assumed to represent the policy of the corporation or association.

(3) "Corporation" means all organizations required by the laws of this state or any other state to obtain a certificate of authority, a certificate of incorporation, or other form of registration to transact business as a corporation within this state or any other state and shall include domestic, foreign, profit and nonprofit corporations, but shall not include a corporation sole, as such term is used in Title 16, Chapter 7, Corporations Sole. Lack of an appropriate certificate of authority, incorporation, or other form of registration shall be no defense when such organization conducted its business in a manner as to appear to have lawful corporate existence.

Amended by Chapter 302, 2025 General Session

76-2-202 Criminal responsibility for direct commission of offense or for conduct of another.

Every person, acting with the mental state required for the commission of an offense who directly commits the offense, who solicits, requests, commands, encourages, or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable as a party for such conduct.

Enacted by Chapter 196, 1973 General Session

76-2-203 Defenses unavailable in prosecution based on conduct of another.

In any prosecution in which an actor's criminal responsibility is based on the conduct of another, it is no defense:

(1) That the actor belongs to a class of persons who by definition of the offense is legally incapable of committing the offense in an individual capacity, or

(2) That the person for whose conduct the actor is criminally responsible has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or of a different type or class of offense or is immune from prosecution.

Enacted by Chapter 196, 1973 General Session

76-2-204 Criminal responsibility of corporation or association.

A corporation or association is guilty of an offense when:

(1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations or associations by law; or

(2) The conduct constituting the offense is authorized, solicited, requested, commanded, or undertaken, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of employment and in behalf of the corporation or association.

Amended by Chapter 302, 2025 General Session

76-2-205 Criminal responsibility of person for conduct in name of corporation or association.

A person is criminally liable for conduct constituting an offense which the person performs or causes to be performed in the name of or on behalf of a corporation or association to the same extent as if such conduct were performed in the person's own name or behalf.

Amended by Chapter 302, 2025 General Session

Part 3
Defenses to Criminal Responsibility

76-2-301 Person under 14 years old not criminally responsible.

A person is not criminally responsible for conduct performed before the person reaches 14 years old. This section shall in no way limit the jurisdiction of or proceedings before the juvenile courts of this state.

Amended by Chapter 302, 2025 General Session

76-2-302 Compulsion.

(1) A person is not guilty of an offense when the person engaged in the proscribed conduct because the person was coerced to do so by the use or threatened imminent use of unlawful physical force upon the person or a third person, which force or threatened force a person of reasonable firmness in that situation would not have resisted.
(2) The defense of compulsion provided by this section shall be unavailable to a person who intentionally, knowingly, or recklessly places himself or herself in a situation in which it is probable that the person will be subjected to duress.
(3) A married woman is not entitled, by reason of the presence of her husband, to any presumption of compulsion or to any defense of compulsion except as in Subsection (1) provided.

Amended by Chapter 302, 2025 General Session

76-2-303 Entrapment.

(1) It is a defense that the actor was entrapped into committing the offense. Entrapment occurs when a peace officer or a person directed by or acting in cooperation with the officer induces the commission of an offense in order to obtain evidence of the commission for prosecution by methods creating a substantial risk that the offense would be committed by one not otherwise ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.
(2) The defense of entrapment shall be unavailable when causing or threatening bodily injury is an element of the offense charged and the prosecution is based on conduct causing or threatening the injury to a person other than the person perpetrating the entrapment.
(3) The defense provided by this section is available even though the actor denies commission of the conduct charged to constitute the offense.

(4) Upon written motion of the defendant, the court shall hear evidence on the issue and shall determine as a matter of fact and law whether the defendant was entrapped to commit the offense. Defendant's motion shall be made at least 10 days before trial except the court for good cause shown may permit a later filing.
(5) Should the court determine that the defendant was entrapped, it shall dismiss the case with prejudice, but if the court determines the defendant was not entrapped, such issue may be presented by the defendant to the jury at trial. Any order by the court dismissing a case based on entrapment shall be appealable by the state.
(6) In any hearing before a judge or jury where the defense of entrapment is an issue, past offenses of the defendant shall not be admitted, except that in a trial where the defendant testifies, the defendant may be asked about past convictions for felonies and any testimony given by the defendant at a hearing on entrapment may be used to impeach the defendant's testimony at trial.

Amended by Chapter 302, 2025 General Session

76-2-304 Ignorance or mistake of fact or law.

(1) Unless otherwise provided, ignorance or mistake of fact which disproves the culpable mental state is a defense to any prosecution for that crime.
(2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense to a crime unless:
  (a) due to an actor's ignorance or mistake, the actor reasonably believed the actor's conduct did not constitute an offense; and
  (b) an actor's ignorance or mistake resulted from the actor's reasonable reliance upon:
    (i) an official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in question; or
    (ii) a written interpretation of the law contained in an opinion of a court of record or made by a public servant charged by law with responsibility for interpreting the law in question.
(3) Although an actor's ignorance or mistake of fact or law may constitute a defense to the offense charged, the actor may nevertheless be convicted of a lesser included offense of which the actor would be guilty if the fact or law were as the actor believed.

Amended by Chapter 302, 2025 General Session

76-2-304.5 Mistake as to victim's age not a defense.

(1) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age:
  (a) child kidnapping, Section 76-5-301.1;
  (b) rape of a child, Section 76-5-402.1;
  (c) object rape of a child, Section 76-5-402.3;
  (d) sodomy on a child, Section 76-5-403.1;
  (e) sexual abuse of a child, Section 76-5-404.1;
  (f) aggravated sexual abuse of a child, Section 76-5-404.3;
  (g) unlawful kissing of a child, Section 76-5-416.2; or
  (h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).
(2) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) unlawful sexual activity with a minor, Section 76-5-401;
(b) sexual abuse of a minor, Section 76-5-401.1; or
(c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).
(3) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age:
(a) human trafficking of a child for labor, Section 76-5-308.5;
(b) human trafficking of a child for commercial sexual exploitation, Section 76-5-308.6;
(c) aggravated human trafficking, Section 76-5-310;
(d) aggravated human smuggling, Section 76-5-317;
(e) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);
(f) patronizing a prostituted individual who is a child, Section 76-5d-204;
(g) aggravated exploitation of prostitution, Section 76-5d-208; or
(h) sexual solicitation by an actor offering compensation to a child in exchange for sexual activity, Section 76-5d-211.

Amended by Chapter 247, 2026 General Session

76-2-305 Mental condition -- Use as a defense -- Influence of alcohol or other substance voluntarily consumed.

(1) As used in this section:
(a)
(i) "Mental condition" means a mental illness or a mental disability that substantially impairs an individual's mental, emotional, or behavioral functioning.
(ii) "Mental condition" does not include a mental abnormality that is manifested solely by repeated criminal conduct, anti-social behavior, or a substance use disorder.
(b) "Mental disability" means an intellectual disability or a neurodevelopmental disorder as those terms are defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.
(c) "Mental illness" means the following mental disorders as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association:
(i) schizophrenia spectrum and other psychotic disorders;
(ii) bipolar I disorder;
(iii) post-traumatic stress disorder; or
(iv) other serious mental health conditions with psychotic features.
(2)
(a) It is a defense to a prosecution under any statute or ordinance that the defendant, as a result of a mental condition, lacked the mental state required as an element of the offense charged.
(b) A mental condition is not otherwise a defense, but may be evidence in mitigation of the penalty in a capital felony under Section 76-3-207 and may be evidence of special mitigation reducing the level of a criminal homicide or attempted criminal homicide offense under Section 76-5-205.5.
(3) The defense defined in this section includes the defenses known as "insanity" and "diminished mental capacity."
(4) A person who asserts a defense of insanity or diminished mental capacity, and who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense is not excused from criminal responsibility

on the basis of a mental condition if the alcohol or substance caused, triggered, or substantially contributed to the mental condition.

Amended by Chapter 177, 2024 General Session

Superseded 1/1/2027

76-2-306 Voluntary intoxication.

(1) Voluntary intoxication is not a defense to a criminal charge unless such intoxication negates the existence of the mental state which is an element of the offense. If recklessness or criminal negligence establishes an element of an offense and the actor is unaware of the risk because of voluntary intoxication, his unawareness is immaterial in a prosecution for that offense.
(2) Voluntary intoxication is not a defense to sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

Amended by Chapter 173, 2025 General Session

Effective 1/1/2027

76-2-306 Voluntary intoxication.

(1) Voluntary intoxication is not a defense to a criminal charge unless such intoxication negates the existence of the mental state which is an element of the offense. If recklessness or criminal negligence establishes an element of an offense and the actor is unaware of the risk because of voluntary intoxication, the actor's unawareness is immaterial in a prosecution for that offense.
(2) Voluntary intoxication is not a defense to a sexual offense, as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

Amended by Chapter 445, 2026 General Session

76-2-307 Voluntary termination of efforts prior to offense.

It is an affirmative defense to a prosecution in which an actor's criminal responsibility arises from the actor's own conduct or from being a party to an offense under Section 76-2-202 that prior to the commission of the offense, the actor voluntarily terminated the actor's effort to promote or facilitate its commission and either:
(1) gave timely warning to the proper law enforcement authorities or the intended victim; or
(2) wholly deprives the actor's prior efforts of effectiveness in the commission.

Amended by Chapter 302, 2025 General Session

76-2-308 Affirmative defenses.

Defenses enumerated in this part constitute affirmative defenses.

Enacted by Chapter 196, 1973 General Session

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, 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.
(3)
(a) Upon motion of the defendant filed in accordance with Rule 12 of the Utah Rules of Criminal Procedure, 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.

Enacted by Chapter 147, 2021 General Session

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)
(i) "Cohabitant" means the same as the term is defined in Section 78B-7-102.
(ii) "Cohabitant" includes, notwithstanding the definition in Section 78B-7-102, an individual who is:
(A) a minor when the minor's parent or stepparent, or an individual living with the minor's parent as if a stepparent to the minor, committed the criminal offense; or
(B) a parent or stepparent of a minor, or an individual living with a parent of a minor as if a stepparent to the minor, when the minor committed the criminal offense.
(c) "Minor" means an individual who is younger than 18 years old.

(d) "Parent" means an individual with an established parent-child relationship as described in Section 81-5-201.

(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.

Amended by Chapter 377, 2026 General Session