

Effective 5/4/2022

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