1	CRIMINAL ACTION - DEFENSE TO CIVIL
2	ACTION FOR DAMAGES
3	2002 GENERAL SESSION
4	STATE OF UTAH
5	Sponsor: Parley G. Hellewell
6	This act modifies the Judicial Code by adding that the next-of-kin or heirs of a person
7	prohibited from bringing a civil action under certain circumstances are also prohibited from
8	bringing a civil action under the same circumstances.
9	This act affects sections of Utah Code Annotated 1953 as follows:
10	AMENDS:
11	<b>78-11-27</b> , as enacted by Chapter 97, Laws of Utah 1996
12	Be it enacted by the Legislature of the state of Utah:
13	Section 1. Section <b>78-11-27</b> is amended to read:
14	78-11-27. Defense to civil action for damages resulting from commission of crime.
15	(1) Any person who, with criminal intent, enters the property of another or commits a
16	crime against the person or property of another may not recover any damages to his person or
17	property except as required by a court order of restitution in a related criminal action, unless that
18	person can prove by clear and convincing evidence that:
19	(a) his actions did not constitute a felony; and
20	(b) his culpability was less than the person from whom recovery is sought.
21	(2) [Subsection (1) does] The provisions of Subsection (1) shall apply to any next-of-kin
22	or heirs of the person is disabled or killed.
23	(3) Subsections (1) and (2) do not apply if the person committing or attempting to commit
24	the crime has clearly retreated from the criminal activity.
25	[(3)] (4) "Clearly retreated" means that the person committing the criminal act has fully,
26	clearly and immediately ceased all hostile, threatening, violent, or criminal behavior or activity



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## Legislative Review Note as of 1-31-02 10:51 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel