

SELF-DEFENSE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill clarifies that an individual is not required to retreat from an aggressor.

Highlighted Provisions:

This bill:

▶ provides that an individual is not required to retreat from an aggressor ~~H→ [even if there is a safe place to which the individual can retreat]~~ ←H ;

▶ provides that an individual's failure to retreat is not relevant when determining whether the individual acted reasonably; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-402, as last amended by Laws of Utah 2010, Chapters 324 and 361

76-10-506, as last amended by Laws of Utah 2014, Chapter 248

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-2-402** is amended to read:



59 alone, constitute "combat by agreement":

60 (i) voluntarily entering into or remaining in an ongoing relationship; or

61 (ii) entering or remaining in a place where one has a legal right to be.

62 ~~[(3) A person does not have a duty to retreat from the force or threatened force~~
63 ~~described in Subsection (1) in a place where that person has lawfully entered or remained,~~
64 ~~except as provided in Subsection (2)(a)(iii).]~~

65 (4) Except as provided in Subsection (3)(a)(iii):

66 (a) an individual does not have a duty to retreat from the force or threatened force
67 described in Subsection (2) in a place where that individual has lawfully entered or remained ~~H→~~ ;
68 **even if safety could be achieved by retreating** ~~←H~~ ; and

69 (b) the failure of an individual to retreat under the provisions of Subsection (4)(a) is not
70 a relevant factor in determining whether the individual who used or threatened force acted
71 reasonably.

72 ~~[(4) (a) For purposes of this section, a forcible felony includes aggravated assault,~~
73 ~~mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping,~~
74 ~~rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a~~
75 ~~child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76,~~
76 ~~Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76,~~
77 ~~Chapter 6, Offenses Against Property.]~~

78 ~~[(b) Any other felony offense which involves the use of force or violence against a~~
79 ~~person so as to create a substantial danger of death or serious bodily injury also constitutes a~~
80 ~~forcible felony.]~~

81 ~~[(c) Burglary of a vehicle, defined in Section 76-6-204, does not constitute a forcible~~
82 ~~felony except when the vehicle is occupied at the time unlawful entry is made or attempted.]~~

83 (5) In determining imminence or reasonableness under Subsection [(4)] (2), the trier of
84 fact may consider[, but is not limited to, any of the following factors]:

85 (a) the nature of the danger;

86 (b) the immediacy of the danger;

87 (c) the probability that the unlawful force would result in death or serious bodily
88 injury;

89 (d) the ~~[other's]~~ other individual's prior violent acts or violent propensities; ~~[and]~~