

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

26 Section 1. Section **76-2-309** is enacted to read:

27 **76-2-309. Justified use of force.**

28 (1) An individual who uses or threatens to use force as permitted in Sections 76-2-402,
29 76-2-405, 76-2-406, 76-2-407, or 76-2-408 is justified in that conduct.

30 (2) ~~H~~→ [Subsection (1)] The pretrial justification hearing process described in
30a Subsections (3)(a) and (b) ←H does not apply if:

31 (a) the individual against whom force was used or threatened is a law enforcement
32 officer, as defined in Section 53-13-103;

33 (b) the officer was acting ~~H~~→ lawfully ←H in the performance of the officer's official
33a duties; and

34 (c) (i) the officer was identified as an officer by the officer in accordance with any
35 applicable law; or

36 (ii) the individual using or threatening to use force knew or reasonably should have
37 known that the officer was a law enforcement officer.

38 (3) (a) Upon motion of the defendant filed in accordance with Rule 12 of the Utah
39 Rules of Criminal Procedure, the court shall hear evidence on the issue of justification under
40 this section and shall determine as a matter of fact and law whether the defendant was justified
41 in the use or threatened use of force.

42 (b) At the pretrial justification hearing, after the defendant makes a prima facie claim
43 of justification, the prosecution has the burden to prove by clear and convincing evidence that
44 the defendant's use or threatened use of force was not justified.

45 (c) (i) If the court determines that the state has not met the state's burden described in
46 Subsection (3)(b), the court shall dismiss the charge with prejudice.

47 (ii) The state may appeal a court's order dismissing a charge under Subsection (3)(c)(i)
48 in accordance with Section 77-18a-1.

49 (iii) If a court determines after the pretrial justification hearing that the state has met
50 the state's burden described in Subsection (3)(b), the issue of justification may be raised by the
51 defendant to the jury at trial and, if raised by the defendant, the state shall have the burden to
52 prove beyond a reasonable doubt that the defendant's use or threatened use of force was not
53 justified.

54 (iv) At trial, a court's determination that the state met the state's burden under
55 Subsection (3)(c)(iii) is not admissible and may not be referenced by the prosecution.