

SELF DEFENSE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill provides immunity for the justifiable use or threatened use of force.

Highlighted Provisions:

This bill:

- ▶ provides immunity from criminal prosecution and civil liability for the justifiable use or threatened use of force;
- ▶ establishes investigation and court procedures; and
- ▶ provides for attorney fees and other expenses in certain civil suits.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-2-410, Utah Code Annotated 1953

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

Section 1. Section **76-2-410** is enacted to read:

76-2-410. Immunity from criminal prosecution and civil liability for justifiable use or threatened use of force.



28 (1) As used in this section, "criminal prosecution" includes arresting, detaining in
29 custody, charging, or prosecuting an individual.

30 (2) (a) Except as provided in Subsection (2)(b), an individual who uses or threatens to
31 use force as permitted in Section 76-2-402, 76-2-405, 76-2-406, or 76-2-407 is justified in that
32 conduct and is immune from:

- 33 (i) criminal prosecution for the use or threatened use of force; and
- 34 (ii) civil liability for the use or threatened use of force, when brought by the individual
35 against whom the force was used or threatened or by a personal representative, heir, or assign
36 of the individual.

37 (b) An individual is not immune from criminal prosecution or civil liability under this
38 section if the individual against whom force was used or threatened is a law enforcement
39 officer, as defined in Section 53-13-103, if:

- 40 (i) the officer was acting in the performance of the officer's official duties; and
- 41 (ii) (A) the officer was identified as an officer by the officer in accordance with any
42 applicable law; or

43 (B) the individual using or threatening to use force knew or reasonably should have
44 known that the officer was a law enforcement officer.

45 (3) A law enforcement agency may use standard procedures for investigating the use or
46 threatened use of force described in Subsection (2), but the agency may not arrest the
47 individual for the use or threatened use of force unless there is probable cause that the use or
48 threatened use of force was unlawful.

49 (4) In a civil action against an individual based on the individual's use or threatened use
50 of force, if a court finds that the individual is immune from civil liability under Subsection (2),
51 the court shall award reasonable attorney fees, court costs, compensation for loss of income,
52 and all expenses incurred by the individual in defense of the civil action.

53 (5) In a criminal prosecution against an individual for the individual's use or threatened
54 use of force, after the individual makes a prima facie claim of immunity under Subsection (2)
55 at a preliminary hearing, the prosecution has the burden to prove by clear and convincing
56 evidence that the immunity in Subsection (2) does not apply.