

# HB0227S01 compared with HB0227

~~{deleted text}~~ shows text that was in HB0227 but was deleted in HB0227S01.

inserted text shows text that was not in HB0227 but was inserted into HB0227S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Karianne Lisonbee proposes the following substitute bill:

## SELF DEFENSE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: \_\_\_\_\_

---

### LONG TITLE

#### General Description:

This bill ~~{provides immunity for}~~addresses the justifiable use or threatened use of force.

#### Highlighted Provisions:

This bill:

- ▶ ~~{provides immunity from criminal prosecution and civil liability for}~~defines the defense of justifiable use or threatened use of force; and
- ▶ establishes ~~{investigation and court procedures; and~~  
→ ~~provides for attorney fees and other expenses in certain civil suits}~~procedures for determining the applicability of the defense.

#### Money Appropriated in this Bill:

None

## HB0227S01 compared with HB0227

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

~~{76-2-410}~~76-2-309, Utah Code Annotated 1953

---

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

Section 1. Section ~~{76-2-410}~~76-2-309 is enacted to read:

~~{76-2-410. Immunity from criminal prosecution and civil liability for justifiable use or threatened}~~76-2-309. Justified use of force.

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

~~—— (2) (a) Except as provided in Subsection (2)(b), an~~An individual who uses or threatens to use force as permitted in ~~{Section}~~Sections 76-2-402, 76-2-405, 76-2-406, 76-2-407, or {76-2-407}76-2-408 is justified in that conduct~~{ and is immune from:~~

~~—— (i) criminal prosecution for the use or threatened use of force; and~~

~~—— (ii) civil liability for the use or threatened use of force, when brought by the individual against whom the force was used or threatened or by a personal representative, heir, or assign of the individual.~~

~~—— (b) An individual is not immune from criminal prosecution or civil liability under this section if:~~

(2) Subsection (1) does not apply if:

(a) the individual against whom force was used or threatened is a law enforcement officer, as defined in Section 53-13-103{, if:}

(~~ii~~b) the officer was acting in the performance of the officer's official duties; and

(~~iii~~c) (~~A~~i) the officer was identified as an officer by the officer in accordance with any applicable law; or

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

(3) { A law enforcement agency may use standard procedures for investigating}(a)

Upon written motion of the defendant, the court shall hear evidence on the issue of justification

## HB0227S01 compared with HB0227

under this section and shall determine as a matter of fact and law whether the defendant was justified in the use or threatened use of force ~~{described}~~.

(b) (i) The defendant shall make the motion at least 10 days before trial.

(ii) For good cause shown, the court may permit a filing that does not comply with the deadline in Subsection (2), but the agency may not arrest the individual for the use or threatened use of force unless there is probable cause that the use or threatened use of force was unlawful.

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

~~— (5) In a criminal prosecution against an individual for the individual's use or threatened use of force, after the individual~~ }3(b)(i).

(c) At the pretrial justification hearing, after the defendant makes a prima facie claim of immunity under Subsection (2) at a preliminary hearing ~~}justification~~, the prosecution has the burden to prove by clear and convincing evidence that the ~~immunity~~ defendant's use or threatened use of force was not justified.

(d) (i) If the court determines that the state has not met the state's burden described in Subsection (2) does not apply.

}3(c), the court shall dismiss the case with prejudice.

(ii) The state may appeal a court's order dismissing a case under Subsection (3)(d)(i).

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

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