

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 addresses the justifiable use or threatened use of force.

Highlighted Provisions:

This bill:

- ▶ defines the defense of justifiable use or threatened use of force; and
- ▶ establishes procedures for determining the applicability of the defense.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-2-309, Utah Code Annotated 1953

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

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

76-2-309. Justified use of force.

(1) An individual who uses or threatens to use force as permitted in Sections [76-2-402](#),



26 76-2-405, 76-2-406, 76-2-407, or 76-2-408 is justified in that conduct.

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

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

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

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

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

35 (3) (a) Upon written motion of the defendant, the court shall hear evidence on the issue
36 of justification under this section and shall determine as a matter of fact and law whether the
37 defendant was justified in the use or threatened use of force.

38 (b) (i) The defendant shall make the motion at least 30 days before trial.

39 (ii) For good cause shown, the court may permit a filing that does not comply with the
40 deadline in Subsection (3)(b)(i).

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

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

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

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

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