

HB0227S02 compared with HB0227S01

~~text~~ shows text that was in HB0227S01 but was deleted in HB0227S02.

text shows text that was not in HB0227S01 but was inserted into HB0227S02.

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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:

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

(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;

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

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

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

(b) (i) The defendant shall make the motion at least ~~10~~30 days before trial.

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

(c) At the pretrial justification hearing, after the defendant makes a prima facie claim of justification, the prosecution has the burden to prove by clear and convincing evidence that the 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 (3)(c), the court shall dismiss the ~~case~~charge 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

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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.