

**13-401. Unavailability of justification defense; justification as defense**

A. Even though a person is justified under this chapter in threatening or using physical force or deadly physical force against another, if in doing so such person recklessly injures or kills an innocent third person, the justification afforded by this chapter is unavailable in a prosecution for the reckless injury or killing of the innocent third person.

B. Except as provided in subsection A, justification, as defined in this chapter, is a defense in any prosecution for an offense pursuant to this title.

**13-402. Justification; execution of public duty**

A. Unless inconsistent with the other sections of this chapter defining justifiable use of physical force or deadly physical force or with some other superseding provision of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by law.

B. The justification afforded by subsection A also applies if:

1. A reasonable person would believe such conduct is required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

2. A reasonable person would believe such conduct is required or authorized to assist a peace officer in the performance of such officer's duties, notwithstanding that the officer exceeded the officer's legal authority.

**13-403. Justification; use of physical force**

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent or guardian and a teacher or other person entrusted with the care and supervision of a minor or incompetent person may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent reasonably necessary and appropriate to maintain discipline.

2. A superintendent or other entrusted official of a jail, prison or correctional institution may use physical force for the preservation of peace, to maintain order or discipline, or to prevent the commission of any felony or misdemeanor.

3. A person responsible for the maintenance of order in a place where others are assembled or on a common motor carrier of passengers, or a person acting under his direction, may use physical force if and to the extent that a reasonable person would believe it necessary to maintain order, but such person may use deadly physical force only if reasonably necessary to prevent death or serious physical injury.

4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon that person to the extent reasonably necessary to thwart the result.

5. A duly licensed physician or a registered nurse or a person acting under his direction, or any other person who renders emergency care at the scene of an emergency occurrence, may use reasonable physical force for the purpose of administering a recognized and lawful form of treatment which is reasonably adapted to promoting the physical or mental health of the patient if:

(a) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person entrusted with his care and supervision except as otherwise provided by law; or

(b) The treatment is administered in an emergency when the person administering such treatment reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

6. A person may otherwise use physical force upon another person as further provided in this chapter.

**13-404. Justification; self-defense**

A. Except as provided in subsection B of this section, a person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful physical force.

B. The threat or use of physical force against another is not justified:

1. In response to verbal provocation alone; or

2. To resist an arrest that the person knows or should know is being made by a peace officer or by a person acting in a peace officer's presence and at his direction, whether the arrest is lawful or unlawful, unless the physical force used by the peace officer exceeds that allowed by law; or

3. If the person provoked the other's use or attempted use of unlawful physical force, unless:

(a) The person withdraws from the encounter or clearly communicates to the other his intent to do so reasonably believing he cannot safely withdraw from the encounter; and

(b) The other nevertheless continues or attempts to use unlawful physical force against the person.

**13-405. Justification; use of deadly physical force**

A. A person is justified in threatening or using deadly physical force against another:

1. If such person would be justified in threatening or using physical force against the other under section 13-404, and

2. When and to the degree a reasonable person would believe that deadly physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly physical force.

B. A person has no duty to retreat before threatening or using deadly physical force pursuant to this section if the person is in a place where the person may legally be and is not engaged in an unlawful act.

**13-406. Justification; defense of a third person**

A person is justified in threatening or using physical force or deadly physical force against another to protect a third person if, under the circumstances as a reasonable person would believe them to be, such person would be justified under section 13-404 or 13-405 in threatening or using physical force or deadly physical force to protect himself against the unlawful physical force or deadly physical force a reasonable person would believe is threatening the third person he seeks to protect.

**13-407. Justification; use of physical force in defense of premises**

A. A person or his agent in lawful possession or control of premises is justified in threatening to use deadly physical force or in threatening or using physical force against another when and to the extent that a reasonable person would believe it immediately necessary to prevent or terminate the commission or attempted commission of a criminal trespass by the other person in or upon the premises.

B. A person may use deadly physical force under subsection A only in the defense of himself or third persons as described in sections 13-405 and 13-406.

C. In this section, "premises" means any real property and any structure, movable or immovable, permanent or temporary, adapted for both human residence and lodging whether occupied or not.

**13-408. Justification; use of physical force in defense of property**

A person is justified in using physical force against another when and to the extent that a reasonable person would believe it necessary to prevent what a reasonable person would believe is an attempt or commission by the other person of theft or criminal damage involving tangible movable property under his possession or control, but such person may use deadly physical force under these circumstances as provided in sections 13-405, 13-406 and 13-411.

**13-409. Justification; use of physical force in law enforcement**

A person is justified in threatening or using physical force against another if in making or assisting in making an arrest or detention or in preventing or assisting in preventing the escape after arrest or detention of that other person, such person uses or threatens to use physical force and all of the following exist:

1. A reasonable person would believe that such force is immediately necessary to effect the arrest or detention or prevent the escape.

2. Such person makes known the purpose of the arrest or detention or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested or detained.

3. A reasonable person would believe the arrest or detention to be lawful.

**13-410. Justification; use of deadly physical force in law enforcement**

A. The threatened use of deadly physical force by a person against another is justified pursuant to section 13-409 only if a reasonable person effecting the arrest or preventing the escape would believe the suspect or escapee is:

1. Actually resisting the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force; or

2. A felon who has escaped from lawful confinement; or

3. A felon who is fleeing from justice or resisting arrest with physical force.

B. The use of deadly physical force by a person other than a peace officer against another is justified pursuant to section 13-409 only if a reasonable person effecting the arrest or preventing the escape would believe the suspect or escapee is actually resisting the discharge of a legal duty with physical force or with the apparent capacity to use deadly physical force.

C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:

1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.

2. To effect an arrest or prevent the escape from custody of a person whom the peace officer reasonably believes:

(a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon.

(b) Is attempting to escape by use of a deadly weapon.

(c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay.

(d) Is necessary to lawfully suppress a riot if the person or another person participating in the riot is armed with a deadly weapon.

D. Notwithstanding any other provisions of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it necessary to protect himself against another's potential use of physical force or deadly physical force.

#### **13-411. Justification; use of force in crime prevention; applicability**

A. A person is justified in threatening or using both physical force and deadly physical force against another if and to the extent the person reasonably believes that physical force or deadly physical force is immediately necessary to prevent the other's commission of arson of an occupied structure under section 13-1704, burglary in the second or first degree under section 13-1507 or 13-1508, kidnapping under section 13-1304, manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, sexual conduct with a minor under section 13-1405, sexual assault under section 13-1406, child molestation under section 13-1410, armed robbery under section 13-1904 or aggravated assault under section 13-1204, subsection A, paragraphs 1 and 2.

B. There is no duty to retreat before threatening or using physical force or deadly physical force justified by subsection A of this section.

C. A person is presumed to be acting reasonably for the purposes of this section if the person is acting to prevent what the person reasonably believes is the imminent or actual commission of any of the offenses listed in subsection A of this section.

D. This section includes the use or threatened use of physical force or deadly physical force in a person's home, residence, place of business, land the person owns or leases, conveyance of any kind, or any other place in this state where a person has a right to be.

#### **13-412. Duress**

A. Conduct which would otherwise constitute an offense is justified if a reasonable person would believe that he was compelled to engage in the proscribed conduct by the threat or use of immediate physical force against his person or the person of another which resulted or could result in serious physical injury which a reasonable person in the situation would not have resisted.

B. The defense provided by subsection A is unavailable if the person intentionally, knowingly or recklessly placed himself in a situation in which it was probable that he would be subjected to duress.

C. The defense provided by subsection A is unavailable for offenses involving homicide or serious physical injury.

#### **13-413. No civil liability for justified conduct**

No person in this state shall be subject to civil liability for engaging in conduct otherwise justified pursuant to the provisions of this chapter.

**13-414. Justification; use of reasonable and necessary means**

A correctional officer as defined in section 41-1661 may use all reasonable and necessary means including deadly force to prevent the attempt of a prisoner sentenced to the custody of the state department of corrections to:

1. Escape from custody or from a correctional facility.
2. Take another person as a hostage.
3. Cause serious bodily harm to another person.

**13-415. Justification; domestic violence**

If there have been past acts of domestic violence as defined in section 13-3601, subsection A against the defendant by the victim, the state of mind of a reasonable person under sections 13-404, 13-405 and 13-406 shall be determined from the perspective of a reasonable person who has been a victim of those past acts of domestic violence.

**13-416. Justification; use of reasonable and necessary means; definition**

A. A security officer who is employed by a private contractor may use all reasonable and necessary means, including deadly force, to prevent a prisoner in the custody of the private contractor from the following:

1. Escaping from the custody of a law enforcement officer, an authorized custodial agent or a correctional facility.

2. Taking another person as a hostage or causing death or serious bodily harm to another person.

B. Security officers who are described in subsection A and who are employed by private prisons in this state shall meet or exceed the minimal training standards established by the American correctional association.

C. For the purposes of this section, "private contractor" means a person that contracts with any governmental entity to provide detention or incarceration services for prisoners.

**13-417. Necessity defense**

A. Conduct that would otherwise constitute an offense is justified if a reasonable person was compelled to engage in the proscribed conduct and the person had no reasonable alternative to avoid imminent public or private injury greater than the injury that might reasonably result from the person's own conduct.

B. An accused person may not assert the defense under subsection A if the person intentionally, knowingly or recklessly placed himself in the situation in which it was probable that the person would have to engage in the proscribed conduct.

C. An accused person may not assert the defense under subsection A for offenses involving homicide or serious physical injury.

**13-418. Justification; use of force in defense of residential structure or occupied vehicles; definitions**

A. Notwithstanding any other provision of this chapter, a person is justified in threatening to use or using physical force or deadly physical force against another person if the person reasonably believes himself or another person to be in imminent peril of death or serious physical injury and the person against whom the physical force or deadly physical force is threatened or used was in the process of unlawfully or forcefully entering, or had unlawfully or forcefully entered, a residential structure or occupied vehicle, or had removed or was attempting to remove another person against the other person's will from the residential structure or occupied vehicle.

B. A person has no duty to retreat before threatening or using physical force or deadly physical force pursuant to this section.

C. For the purposes of this section:

1. "Residential structure" has the same meaning prescribed in section 13-1501.

2. "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport persons or property.

**13-419. Presumptions; defense of a residential structure or occupied vehicle; exceptions; definitions**

A. A person is presumed to reasonably believe that the threat or use of physical force or deadly force is immediately necessary for the purposes of sections 13-404 through 13-408, section 13-418 and section 13-421 if the person knows or has reason to believe that the person against whom physical force or deadly force is threatened or used is unlawfully or forcefully entering or has unlawfully or forcefully entered and is present in the person's residential structure or occupied vehicle.

B. For the purposes of sections 13-404 through 13-408, section 13-418 and section 13-421, a person who is unlawfully or forcefully entering or who has unlawfully or forcefully entered and is present in a residential structure or occupied vehicle is presumed to pose an imminent threat of unlawful deadly harm to any person who is in the residential structure or occupied vehicle.

C. The presumptions in subsections A and B of this section do not apply if:

1. The person against whom physical force or deadly physical force was threatened or used has the right to be in or is a lawful resident of the residential structure or occupied vehicle, including an owner, lessee, invitee or titleholder, and an order of protection or injunction against harassment has not been filed against that person.

2. The person against whom physical force or deadly physical force was threatened or used is the parent or grandparent, or has legal custody or guardianship, of a child or grandchild sought to be removed from the residential structure or occupied vehicle.

3. The person who threatens or uses physical force or deadly physical force is engaged in an unlawful activity or is using the residential structure or occupied vehicle to further an unlawful activity.

4. The person against whom physical force or deadly physical force was threatened or used is a law enforcement officer who enters or attempts to enter a residential structure or occupied vehicle in the performance of official duties.

D. For the purposes of this section:

1. "Residential structure" has the same meaning prescribed in section 13-1501.

2. "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport persons or property.

**13-420. Attorney fees; costs**

The court shall award reasonable attorney fees, costs, compensation for lost income and all expenses incurred by a defendant in the defense of any civil action based on conduct otherwise justified pursuant to this chapter if the defendant prevails in the civil action.

**13-421. Justification; defensive display of a firearm; definition**

A. The defensive display of a firearm by a person against another is justified when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the use or attempted use of unlawful physical force or deadly physical force.

B. This section does not apply to a person who:

1. Intentionally provokes another person to use or attempt to use unlawful physical force.

2. Uses a firearm during the commission of a serious offense as defined in section 13-706 or violent crime as defined in section 13-901.03.

C. This section does not require the defensive display of a firearm before the use of physical force or the threat of physical force by a person who is otherwise justified in the use or threatened use of physical force.

D. For the purposes of this section, "defensive display of a firearm" includes:

1. Verbally informing another person that the person possesses or has available a firearm.

2. Exposing or displaying a firearm in a manner that a reasonable person would understand was meant to protect the person against another's use or attempted use of unlawful physical force or deadly physical force.

3. Placing the person's hand on a firearm while the firearm is contained in a pocket, purse or other means of containment or transport.