



Title 77 Utah Code of Criminal Procedure
Arrest

77-7-3 Arrest by private person

A private person may arrest another:

- (1) For a public offense committed or attempted in his presence; or
- (2) When a felony has been committed and he has reasonable cause to believe the person arrested has committed it.

77-7-6 Manner of making arrest.

(1) The person making the arrest shall inform the person being arrested of his intention, cause, and authority to arrest him. Such notice shall not be required when:

- (a) there is reason to believe the notice will endanger the life or safety of the officer or another person or will likely enable the party being arrested to escape;
- (b) the person being arrested is actually engaged in the commission of, or an attempt to commit, an offense; or
- (c) the person being arrested is pursued immediately after the commission of an offense or an escape.

(2) (a) If a hearing-impaired person, as defined in Subsection 78B-1-201(2), is arrested for an alleged violation of a criminal law, including a local ordinance, the arresting officer shall assess the communicative abilities of the hearing-impaired person and conduct this notification, and any further notifications of rights, warnings, interrogations, or taking of statements, in a manner that accurately and effectively communicates with the hearing-impaired person including qualified interpreters, lip reading, pen and paper, typewriters, computers with print-out capability, and telecommunications devices for the deaf.

(b) Compliance with this subsection is a factor to be considered by any court when evaluating whether statements of a hearing-impaired person were made knowingly, voluntarily, and intelligently.

77-7-8 Forcible entry to make arrest – Conditions requiring a warrant.

(1) (a) Subject to Subsection (2), a peace officer when making an arrest may forcibly enter the building in which the person to be arrested is, or in which there

are reasonable grounds for believing him to be.

(b) Before making the forcible entry, the officer shall demand admission and explain the purpose for which admission is desired.

(c) The officer need not give a demand and explanation before making a forcible entry under the exceptions in Section 77-7-6 or where there is reason to believe evidence will be secreted or destroyed.

(2) If the building to be entered under Subsection (1) appears to be a private residence or the officer knows the building is a private residence, and if there is no consent to enter or there are no exigent circumstances, the officer shall, before entering the building:

- (a) obtain an arrest or search warrant if the building is the residence of the person to be arrested; or
- (b) obtain a search warrant if the building is a residence, but not the residence of the person whose arrest is sought.

Offenses Against Property

76-6-102. Arson.

(1) A person is guilty of arson if, under circumstances not amounting to aggravated arson, the person by means of fire or explosives unlawfully and intentionally damages:

- (a) any property with intention of defrauding an insurer; or
- (b) the property of another.

(2) A violation of Subsection (1)(a) is a second degree felony.

(3) A violation of Subsection (1)(b) is:

- (a) a second degree felony if:
 - (i) the damage caused is or exceeds \$5,000 in value; or
 - (ii) as a proximate result of the fire or explosion, any person not a participant in the offense suffers serious bodily injury as defined in Section 76-1-601;
- (b) a third degree felony if:
 - (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;
 - (ii) as a proximate result of the fire or explosion, any person not a participant in the offense suffers substantial bodily injury as defined in Section 76-1-601; or

- (iii) the fire or explosion endangers human life;
- (c) a class A misdemeanor if the damage caused is or exceeds \$500 but is less than \$1,500 in value; and
- (d) a class B misdemeanor if the damage caused is less than \$500.

76-6-103. Aggravated arson.

(1) A person is guilty of aggravated arson if by means of fire or explosives he intentionally and unlawfully damages:

- (a) a habitable structure; or
 - (b) any structure or vehicle when any person not a participant in the offense is in the structure or vehicle.
- (2) Aggravated arson is a felony of the first degree.

76-6-106. Criminal mischief.

(1) As used in this section, "critical infrastructure" includes:

- (a) information and communication systems;
- (b) financial and banking systems;
- (c) transportation systems;
- (d) any public utility service, including the power, energy, and water supply systems;
- (e) sewage and water treatment systems;
- (f) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;
- (g) public health facilities and systems;
- (h) food distribution systems; and
- (i) other government operations and services.

(2) A person commits criminal mischief if the person:

- (a) under circumstances not amounting to arson, damages or destroys property with the intention of defrauding an insurer;
- (b) intentionally and unlawfully tampers with the property of another and as a result:
 - (i) recklessly endangers:
 - (A) human life; or
 - (B) human health or safety; or
 - (ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure;
- (c) intentionally damages, defaces, or destroys the property of another; or
- (d) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle,

bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.

(3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

(iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

(iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

(b) Any other violation of this section is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than \$500 in value.

(4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

(5) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred

in responding to a violation of Subsection (2)(b)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.

76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement liability.

(1) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, affixing, or inscribing on the property of another regardless of the

content or nature of the material used in the commission of the act.

(2) "Victim" means the person or entity whose property was defaced by the graffiti and bears the expense for its removal.

(3) Graffiti is a:

(a) second degree felony if the damage caused is in excess of \$5,000;

(b) third degree felony if the damage caused is in excess of \$1,000;

(c) class A misdemeanor if the damage caused is equal to or in excess of \$300; and

(d) class B misdemeanor if the damage caused is less than \$300.

(4) Damages under Subsection (3) include removal costs, repair costs, or replacement costs, whichever is less.

(5) The court, upon conviction or adjudication, shall order restitution to the victim in the amount of removal, repair, or replacement costs.

(6) An additional amount of \$1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.

(7) A person who voluntarily and at his own expense, removes graffiti for which he is responsible may be credited for the removal costs against restitution ordered by a court.

76-6-202. Burglary.

(1) An actor is guilty of burglary who enters or remains unlawfully in a building or any portion of a building with intent to commit:

(a) a felony;

(b) theft;

(c) an assault on any person;

(d) lewdness, a violation of Subsection 76-9-702(1);

(e) sexual battery, a violation of Subsection 76-9-702(3);

(f) lewdness involving a child, in violation of Section 76-9-702.5; or

(g) voyeurism under Section 76-9-702.7.

(2) Burglary is a third degree felony unless it was committed in a dwelling, in which event it is a second degree felony.

(3) A violation of this section is a separate offense from any of the offenses listed in Subsections (1)(a) through (g), and which may be committed by the actor while in the building.

76-6-203. Aggravated burglary.

(1) A person is guilty of aggravated burglary if in attempting, committing, or fleeing from a burglary the actor or another participant in the crime:

(a) causes bodily injury to any person who is not a participant in the crime;

(b) uses or threatens the immediate use of a dangerous weapon against any person who is not a participant in the crime; or

(c) possesses or attempts to use any explosive or dangerous weapon.

(2) Aggravated burglary is a first degree felony.

(3) As used in this section, "dangerous weapon" has the same definition as under Section 76-1-601.

76-6-204. Burglary of a vehicle -- Charge of other offense.

(1) Any person who unlawfully enters any vehicle with intent to commit a felony or theft is guilty of a burglary of a vehicle.

(2) Burglary of a vehicle is a class A misdemeanor.

(3) A charge against any person for a violation of Subsection (1) shall not preclude a charge for a commission of any other offense.

76-6-206. Criminal trespass.

(1) As used in this section, "enter" means intrusion of the entire body.

(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the person enters or remains unlawfully on property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether his presence will cause fear for the safety of another;

(b) knowing the person's entry or presence is unlawful, the person enters or remains on property as to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) the person enters a condominium unit in violation of Subsection 57-8-7(7).

(3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was committed in a dwelling, in which event it is a class A misdemeanor.

(b) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was open to the public when the actor entered or remained; and

(b) the actor's conduct did not substantially interfere with the owner's use of the property.

76-6-301. Robbery.

(1) A person commits robbery if:

(a) the person unlawfully and intentionally takes or attempts to take personal property in the possession of another from his person, or immediate presence, against his will, by means of force or fear, and with a purpose or intent to deprive the person permanently or temporarily of the personal property; or

(b) the person intentionally or knowingly uses force or fear of immediate force against another in the course of committing a theft or wrongful appropriation.

(2) An act is considered to be "in the course of committing a theft or wrongful appropriation" if it occurs:

(a) in the course of an attempt to commit theft or wrongful appropriation;

(b) in the commission of theft or wrongful appropriation; or

(c) in the immediate flight after the attempt or commission.

(3) Robbery is a felony of the second degree.

76-6-302. Aggravated robbery.

(1) A person commits aggravated robbery if in the course of committing robbery, he:

(a) uses or threatens to use a dangerous weapon as defined in Section 76-1-601;

(b) causes serious bodily injury upon another; or
(c) takes or attempts to take an operable motor vehicle.

(2) Aggravated robbery is a first degree felony.

(3) For the purposes of this part, an act shall be considered to be "in the course of committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.

76-6-404. Theft -- Elements.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

76-6-412.5. Property damage caused in the course of committing a theft.

If a defendant who commits or attempts to commit theft as defined in Section 76-6-404 of regulated metal as defined in Section 76-10-901 and in the course of committing or attempting to commit the theft causes damage to any person's real or personal property other than the regulated metal, the defendant is liable for restitution for all costs incurred due to the damage to the person's property.

76-6-602 Retail theft, acts constituting.

A person commits the offense of retail theft when he knowingly:

(1) Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price

tag, marking, indicia of value or any other markings which aid in determining value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use or benefit of such cart.

76-6-603 Detention of suspected violator by merchant – Purposes.

(1) Any merchant who has probable cause to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;

(b) to request identification;

(c) to verify such identification;

(d) to make a reasonable request of such person to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person

interested in the welfare of that minor immediately, if possible, of this detention and to surrender custody of such minor to such person.

(2) A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

76-6-604 Defense to action by person detained.

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by the merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had committed retail theft and that the merchant acted reasonably under all circumstances.

Utah Shoplifting Laws

78-11-14. Shoplifting -- Definitions.

As used in this act:

(1) "Minor" means any unmarried person under 18 years of age.

(2) "Merchandise" means any personal property displayed, held or offered for sale by a merchant.

(3) "Merchant" means an owner or operator of premises in which merchandise is displayed, held or offered for sale and includes his employees, servants and agents.

(4) "Premises" means a store or establishment wherein merchandise is displayed, held or offered for sale.

(5) "Wrongful taking of merchandise" means the taking of merchandise that has not been purchased from a merchant's premises without the permission of the merchant or one of his employees, servants or agents. 76-6-602. Retail theft, acts constituting.

A person commits the offense of retail theft when he knowingly:

(1) Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use or benefit of such cart.

78-11-17. Merchant's right to request customer to hold merchandise in full view.

Any merchant may request any individual on his premises to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, purchase or for any other reasonable purpose. No merchant shall be criminally or civilly liable on account of having made such a request.

78-11-15. Civil liability of adult for shoplifting -- Damages.

An adult who wrongfully takes merchandise by any means, including but not limited to, concealment or attempted concealment in any manner, either on or off the premises of the merchant, with a purpose to deprive a merchant of merchandise or to avoid payment for merchandise, or both, is liable in a civil action, in addition to actual damages, for a penalty to the merchant in the amount of the retail price of the merchandise not to exceed \$1,000, plus an additional penalty as determined by the court of not less than \$100 nor more than \$500, plus court costs and reasonable at-

torneys' fees.

77-7-12. Detaining persons suspected of shoplifting or library theft -- Persons authorized.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who has reasonable grounds to believe that goods held or displayed for sale by the merchant have been taken by a person with intent to steal may, for the purpose of investigating the unlawful act and attempting to effect a recovery of the goods, detain the person in a reasonable manner for a reasonable length of time.

76-6-603. Detention of suspected violator by merchant -- Purposes.

Any merchant who has probable cause to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(1) To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;

(2) To request identification;

(3) To verify such identification;

(4) To make a reasonable request of such person to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, purchase or for any other reasonable purpose;

(5) To inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;

(6) In the case of a minor, to inform a peace officer, the parents, guardian or other private person interested in the welfare of that minor immediately, if possible, of this detention and to surrender custody of such minor to such person.

A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

77-7-14. Person causing detention or arrest of per-

son suspected of shoplifting or library theft -- Civil and criminal immunity.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the detention of a person as provided in Section 77-7-12, or who causes the arrest of a person for theft of goods held or displayed for sale, is not criminally or civilly liable where he has reasonable and probable cause to believe the person detained or arrested committed a theft of goods held or displayed for sale.

78-11-16. Joint liability of minor and parent or guardian for minor's shoplifting -- Exception.

A minor and the parents or legal guardian having legal custody of such minor, as the case may be, who wrongfully takes merchandise by any means, including but not limited to, concealment or attempted concealment in any manner, either on or off the premises of the merchant, with a purpose to deprive a merchant of merchandise or to avoid payment for the merchandise, or both, are jointly and severally liable in a civil action, in addition to actual damages, for a penalty to the merchant in the amount of the retail price of the merchandise not to exceed \$500 plus an additional penalty as determined by the court of not less than \$50 nor more than \$500, plus court costs and reasonable attorneys' fees. No parent or guardian is liable for damages under this section if he or she made a reasonable effort to restrain the wrongful taking and did not fail to report it to the merchant involved or to the law enforcement agency having primary jurisdiction after he or she knew of the minor's unlawful act. No report is required under this section from a parent or guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the merchant involved.

78-11-19. Criminal conviction for shoplifting not a prerequisite for civil action under chapter -- Written notice required -- Award of penalty not subject to requirement of compensatory or general damages.

(1) A conviction in a criminal action of shoplifting is not a condition precedent to a civil action authorized under Section 78-11-15 or 78-11-16.

(2)(a) A merchant demanding payment of a penalty

under Section 78-11-15 or 78-11-16 shall give written notice to the person or persons from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

(b) This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of the penalty described in Section 78-11-15 or 78-11-16.

(3) The provision of Section 78-18-1 requiring that compensatory or general damages be awarded in order to award punitive damages does not prohibit an award of a penalty under Section 78-11-15 or 78-11-16 whether or not restitution has been paid to the merchant either prior to or as part of a civil action under Section 78-11-15 or 78-11-16.

Offenses Against the Person

76-5-102. Assault.

(1) Assault is:

(a) an attempt, with unlawful force or violence, to do bodily injury to another;

(b) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(c) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

(2) Assault is a class B misdemeanor.

(3) Assault is a class A misdemeanor if:

(a) the person causes substantial bodily injury to another; or

(b) the victim is pregnant and the person has knowledge of the pregnancy.

(4) It is not a defense against assault, that the accused caused serious bodily injury to another.

76-5-103. Aggravated assault.

(1) A person commits aggravated assault if the person commits assault as defined in Section 76-5-102 and uses:

(a) a dangerous weapon as defined in Section 76-1-601; or

(b) other means or force likely to produce death or serious bodily injury.

(2) (a) A violation of Subsection (1) is a third degree felony, except under Subsection (2)(b).

(b) A violation of Subsection (1) that results in serious bodily injury is a second degree felony.

76-5-105. Mayhem.

(1) Every person who unlawfully and intentionally deprives a human being of a member of his body, or disables or renders it useless, or who cuts out or disables the tongue, puts out an eye, or slits the nose, ear, or lip, is guilty of mayhem.

(2) Mayhem is a felony of the second degree.

Use of Force and Self-Defense Laws

76-2-402. Force in defense of person -- Forcible felony defined.

(1) (a) A person is justified in threatening or using force against another when and to the extent that the person reasonably believes that force or a threat of force is necessary to defend the person or a third person against another person's imminent use of unlawful force.

(b) A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force, or to prevent the commission of a forcible felony.

(2) (a) A person is not justified in using force under the circumstances specified in Subsection (1) if the person:

(i) initially provokes the use of force against the person with the intent to use force as an excuse to inflict bodily harm upon the assailant;

(ii) is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or

(iii) was the aggressor or was engaged in a combat by agreement, unless the person withdraws from the encounter and effectively communicates to the other person his intent to do so and, notwithstanding, the other person continues or threatens to continue the use of unlawful force.

(b) For purposes of Subsection (2)(a)(iii) the following do not, by themselves, constitute "combat by

agreement":

(i) voluntarily entering into or remaining in an ongoing relationship; or

(ii) entering or remaining in a place where one has a legal right to be.

(3) A person does not have a duty to retreat from the force or threatened force described in Subsection (1) in a place where that person has lawfully entered or remained, except as provided in Subsection (2)(a)(iii).

(4) (a) For purposes of this section, a forcible felony includes aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property.

(b) Any other felony offense which involves the use of force or violence against a person so as to create a substantial danger of death or serious bodily injury also constitutes a forcible felony.

(c) Burglary of a vehicle, defined in Section 76-6-204, does not constitute a forcible felony except when the vehicle is occupied at the time unlawful entry is made or attempted.

(5) In determining imminence or reasonableness under Subsection (1), the trier of fact may consider, but is not limited to, any of the following factors:

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the unlawful force would result in death or serious bodily injury;

(d) the other's prior violent acts or violent propensities; and

(e) any patterns of abuse or violence in the parties' relationship.

76-2-403. Force in arrest.

Any person is justified in using any force, except deadly force, which he reasonably believes to be necessary to effect an arrest or to defend himself or another from bodily harm while making an arrest.

76-2-404. Peace officer's use of deadly force.

(1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(3) or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

(2) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c).

76-2-406. Force in defense of property -- Affirmative defense.

(1) A person is justified in using force, other than deadly force, against another when and to the extent that the person reasonably believes that force is necessary to prevent or terminate another person's criminal interference with real property or personal property:

(a) lawfully in the person's possession;

(b) lawfully in the possession of a member of the person's immediate family; or

(c) belonging to a person whose property the person has a legal duty to protect.

(2) In determining reasonableness under Subsection (1), the trier of fact shall, in addition to any other factors, consider the following factors:

(a) the apparent or perceived extent of the damage to the property;

(b) property damage previously caused by the other person;

(c) threats of personal injury or damage to property

that have been made previously by the other person; and

(d) any patterns of abuse or violence between the person and the other person.

76-2-407. Deadly force in defense of persons on real property.

(1) A person is justified in using force intended or likely to cause death or serious bodily injury against another in his defense of persons on real property other than his habitation if:

(a) he is in lawful possession of the real property;

(b) he reasonably believes that the force is necessary to prevent or terminate the other person's trespass onto the real property;

(c) the trespass is made or attempted by use of force or in a violent and tumultuous manner; and

(d) (i) the person reasonably believes that the trespass is attempted or made for the purpose of committing violence against any person on the real property and he reasonably believes that the force is necessary to prevent personal violence; or

(ii) the person reasonably believes that the trespass is made or attempted for the purpose of committing a forcible felony as defined in Section 76-2-402 that poses imminent peril of death or serious bodily injury to a person on the real property and that the force is necessary to prevent the commission of that forcible felony.

(2) The person using deadly force in defense of persons on real property under Subsection (1) is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the trespass or attempted trespass is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or for the purpose of committing a forcible felony.

Law Enforcement Services, LLC

(801) 319-4192

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