

CHAPTER 704

FORCE — REASONABLE OR DEADLY — DEFENSES

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704.1 Reasonable force.

“Reasonable force” is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one’s life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to life or safety, or the life or safety of a third party, or requires one to abandon or retreat from one’s dwelling or place of business or employment.

[C51, §2773; R60, §4442; C73, §4112; C97, §5102; C24, 27, 31, 35, 39, §12921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.1; C79, 81, §704.1; 81 Acts, ch 204, §2]

[P] “Dwelling” defined, see §702.10

704.2 Deadly force.

The term “deadly force” means any of the following:

1. Force used for the purpose of causing serious injury.
2. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.
3. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, in the direction of some person with the knowledge of the person’s presence there, even though no intent to inflict serious physical injury can be shown.
4. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, at a vehicle in which a person is known to be.

As used in this section, “less lethal munitions” means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person’s body.

[C79, 81, §704.2]

97 Acts, ch 166, §1, 2

704.3 Defense of self or another.

A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any imminent use of unlawful force.

[C51, §2773 – 2775; R60, §4442 – 4444; C73, §4112 – 4114; C97, §5102 – 5104; C24, 27, 31, 35, 39, §12921 – 12923; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.1, 691.2(1), 691.3; C79, 81, §704.3]

704.4 Defense of property.

A person is justified in the use of reasonable force to prevent or terminate criminal interference with the person’s possession or other right in property. Nothing in this section authorizes the use of any spring gun or trap which is left unattended and unsupervised and

which is placed for the purpose of preventing or terminating criminal interference with the possession of or other right in property.

[C51, §2774; R60, §4443; C73, §4113; C97, §5103; C24, 27, 31, 35, 39, §12922; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.2(2); C79, 81, §704.4]

704.5 Aiding another in the defense of property.

A person is justified in the use of reasonable force to aid another in the lawful defense of the other person's rights in property or in any public property.

[C51, §2775; R60, §4444; C73, §4114; C97, §5104; C24, 27, 31, 35, 39, §12923; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.3; C79, 81, §704.5]

704.6 When defense not available.

The defense of justification is not available to the following:

1. One who is participating in a forcible felony, or riot, or a duel.
2. One who initially provokes the use of force against oneself, with the intent to use such force as an excuse to inflict injury on the assailant.

3. One who initially provokes the use of force against oneself by one's unlawful acts, unless:

a. Such force is grossly disproportionate to the provocation, and is so great that the person reasonably believes that the person is in imminent danger of death or serious injury or

b. The person withdraws from physical contact with the other and indicates clearly to the other that the person desires to terminate the conflict but the other continues or resumes the use of force.

[C79, 81, §704.6]

704.7 Resisting forcible felony.

A person who knows that a forcible felony is being perpetrated is justified in using, against the perpetrator, reasonable force to prevent the completion of that felony.

[C79, 81, §704.7]

[P] Forcible felony defined, see §702.11

[P] Liability of perpetrator of forcible felony, see chapter 670A

704.8 Escape from place of confinement.

A correctional officer or peace officer is justified in using reasonable force, including deadly force, which is necessary to prevent the escape of any person from any jail, penal institution, correctional facility, or similar place of confinement, or place of trial or other judicial proceeding, or to prevent the escape from custody of any person who is being transported from any such place of confinement, trial or judicial proceeding to any other such place, except that deadly force may not be used to prevent the escape of one who the correctional officer or peace officer knows is confined on a charge or conviction of any class of misdemeanor.

[C79, 81, §704.8]

2001 Acts, ch 131, §2

704.9 Death.

A physician or a person acting on the direct orders of a physician who ceases to provide medical attention to a person who is dead, as death is defined in section 702.8, shall not be criminally liable for such cessation of medical attention.

[C79, 81, §704.9]

704.10 Compulsion.

No act, other than an act by which one intentionally or recklessly causes physical injury to another, is a public offense if the person so acting is compelled to do so by another's threat or menace of serious injury, provided that the person reasonably believes that such injury is imminent and can be averted only by the person doing such act.

[C79, 81, §704.10]

704.11 Police activity.

A peace officer or person acting as an agent of or directed by any police agency who participates in the commission of a crime by another person solely for the purpose of gathering evidence leading to the prosecution of such other person shall not be guilty of that crime or of the crime of solicitation as set forth in section 705.1, provided that all of the following are true:

1. The officer or person is not an instigator of the criminal activity.
2. The officer or person does not intentionally injure a nonparticipant in the crime.
3. The officer or person acts with the consent of superiors, or the necessity of immediate action precludes obtaining such consent.
4. The officer's or person's actions are reasonable under the circumstances.

This section is not intended to preclude the use of undercover or surveillance persons by law enforcement agencies in appropriate circumstances and manner. It is intended to discourage such activity to tempt, urge or persuade the commission of offenses by persons not already disposed to commit offenses of that kind.

[C79, 81, §704.11]

704.12 Use of force in making an arrest.

A peace officer or other person making an arrest or securing an arrested person may use such force as is permitted by sections 804.8, 804.10, 804.13 and 804.15.

[C51, §2844; R60, §4553; C73, §4205; C97, §5200; C24, 27, 31, 35, 39, §13472; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.8; C79, 81, §704.12]