

REFERENCE TITLE: justification; requirements

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## HB 2664

Introduced by  
Representatives Longdon: Bravo, Gutierrez, Hernandez A, Hernandez C,  
Hernandez L, Sun, Terech, Travers

### AN ACT

AMENDING SECTIONS 13-404, 13-405, 13-408, 13-411 AND 13-419, ARIZONA  
REVISED STATUTES; REPEALING SECTION 13-421, ARIZONA REVISED STATUTES;  
RELATING TO JUSTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-404, Arizona Revised Statutes, is amended to  
3 read:

4 13-404. Justification; self-defense

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

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

12 1. In response to verbal provocation alone; or

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

18 3. If the person ~~provoked~~ KNOWINGLY ENGAGED IN CONDUCT THAT WAS  
19 REASONABLY LIKELY TO PROVOKE the other's use or attempted use of unlawful  
20 physical force, unless:

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

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

26 Sec. 2. Section 13-405, Arizona Revised Statutes, is amended to  
27 read:

28 13-405. Justification; use of deadly physical force

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

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

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

36 B. A person ~~has no duty to retreat before threatening or using~~ MAY  
37 NOT USE deadly physical force pursuant to this section if the person ~~is in~~  
38 ~~a place where the person may legally be and is not engaged in an unlawful~~  
39 ~~act~~ KNOWS THAT BY RETREATING THE PERSON CAN AVOID THE NECESSITY OF USING  
40 DEADLY FORCE WITH COMPLETE SAFETY.

1       Sec. 3. Section 13-408, Arizona Revised Statutes, is amended to  
2 read:

3       13-408. Justification; use of physical force in defense of  
4               property

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

12       Sec. 4. Section 13-411, Arizona Revised Statutes, is amended to  
13 read:

14       13-411. Justification; use of force in crime prevention;  
15               applicability

16       A. A person is justified in threatening or using both physical  
17 force and deadly physical force against another if and to the extent the  
18 person reasonably believes that physical force or deadly physical force is  
19 immediately necessary to prevent the other's commission of arson of an  
20 occupied structure under section 13-1704, burglary in the second or first  
21 degree under section 13-1507 or 13-1508, kidnapping under section 13-1304,  
22 manslaughter under section 13-1103, second or first degree murder under  
23 section 13-1104 or 13-1105, sexual conduct with a minor under section  
24 13-1405, sexual assault under section 13-1406, child molestation under  
25 section 13-1410, armed robbery under section 13-1904 or aggravated assault  
26 under section 13-1204, subsection A, paragraphs 1 and 2.

27       B. ~~There is no duty to retreat before threatening or~~ A PERSON IS  
28 JUSTIFIED IN using ~~physical force or~~ deadly physical force ~~justified by~~  
29 ~~subsection A of~~ PURSUANT TO this section ONLY IF THE PERSON'S USE OF FORCE  
30 IS JUSTIFIED PURSUANT TO SECTION 13-405 OR 13-406.

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

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

40       Sec. 5. Section 13-419, Arizona Revised Statutes, is amended to  
41 read:

42       13-419. Presumptions; defense of a residential structure or  
43               occupied vehicle; exceptions; definitions

44       A. A person is presumed to reasonably believe that the threat or  
45 use of physical force or deadly force is immediately necessary for the

1 purposes of sections 13-404, ~~through~~ 13-405, 13-406, 13-407,  
2 13-408, ~~section~~ AND 13-418 ~~and section 13-421~~ if the person knows or has  
3 reason to believe that the person against whom physical force or deadly  
4 force is threatened or used is unlawfully or forcefully entering or has  
5 unlawfully or forcefully entered and is present in the person's  
6 residential structure or occupied vehicle.

7 B. For the purposes of sections 13-404, ~~through~~ 13-405, 13-406,  
8 13-407, 13-408, ~~section~~ AND 13-418 ~~and section 13-421~~, a person who is  
9 unlawfully or forcefully entering or who has unlawfully or forcefully  
10 entered and is present in a residential structure or occupied vehicle is  
11 presumed to pose an imminent threat of unlawful deadly harm to any person  
12 who is in the residential structure or occupied vehicle.

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

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

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

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

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

31 D. For the purposes of this section:

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

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

36 Sec. 6. Repeal

37 Section 13-421, Arizona Revised Statutes, is repealed.