

## Tennessee Justification Defense Statutes

### **39-11-601. Justification a defense.**

It is a defense to prosecution that the conduct of the person is justified under this part.

### **39-11-602. Justification definitions.**

As used in this part, unless the context otherwise requires:

(1) "Custody" means under arrest by a law enforcement officer, or under restraint by an officer, employee or agent of government pursuant to an order of a court;

(2) "Deadly force" means force that is intended or known by the defendant to cause or, in the manner of its use or intended use, is capable of causing death or serious bodily injury; and

(3) "Escape" means unauthorized departure from custody or failure to return to custody following temporary leave for a specific purpose of limited period, but does not include a violation of conditions of probation or parole.

### **39-11-604. Reckless injury of innocent third person.**

Even though a person is justified under this part in threatening or using force or deadly force against another, the justification afforded by this part is unavailable in a prosecution for harm to an innocent third person who is recklessly injured or recklessly killed by the use of such force.

### **39-11-609. Necessity.**

Except as provided in [§§ 39-11-611 - 39-11-616](#), [39-11-620](#) and [39-11-621](#), conduct is justified, if:

(1) The person reasonably believes the conduct is immediately necessary to avoid imminent harm; and

(2) The desirability and urgency of avoiding the harm clearly outweigh the harm sought to be prevented by the law proscribing the conduct, according to ordinary standards of reasonableness.

### **39-11-610. Public duty.**

(a) Except as qualified by subsections (b) and (c), conduct is justified if the person reasonably believes the conduct is required or authorized by law, by the judgment or order of a competent court or other tribunal, or in the execution of legal process.

(b) The following sections of this part control:

(1) When force is threatened or used against a person to protect persons, pursuant to [§§ 39-11-611 - 39-11-613](#);

(2) To protect property, pursuant to [§§ 39-11-614 - 39-11-616](#); or

(3) For law enforcement, pursuant to [§ 39-11-620](#).

(c) The justification afforded by this section is available if:

(1) The person reasonably believes the court or tribunal has jurisdiction or the process is lawful, even though the court or tribunal lacks jurisdiction or the process is unlawful; or

(2) The person reasonably believes the conduct is required or authorized to assist a public servant in the performance of the public servant's official duty, even though the public servant exceeds the public servant's lawful authority.

### **39-11-611. Self-defense.**

(a) As used in this section, unless the context otherwise requires:

(1) "Curtilage" means the area surrounding a dwelling that is necessary, convenient and habitually used for family purposes and for those activities associated with the sanctity of a person's home;

(2) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, that has a roof over it, including a tent, and is designed for or capable of use by people;

(3) "Residence" means a dwelling in which a person resides, either temporarily or permanently, or is visiting as an invited guest, or any dwelling, building or other appurtenance within the curtilage of the residence; and

(4) "Vehicle" means any motorized vehicle that is self-propelled and designed for use on public highways to transport people or property.

(b) (1) Notwithstanding [§ 39-17-1322](#), a person who is not engaged in unlawful activity and is in a place where the person has a right to be has no duty to retreat before threatening or using force against another person when and to the degree the person reasonably believes the force is immediately necessary to protect against the other's use or attempted use of unlawful force.

(2) Notwithstanding [§ 39-17-1322](#), a person who is not engaged in unlawful activity and is in a place where the person has a right to be has no duty to retreat before threatening or using force intended or likely to cause death or serious bodily injury, if:

(A) The person has a reasonable belief that there is an imminent danger of death or serious bodily injury;

(B) The danger creating the belief of imminent death or serious bodily injury is real, or honestly believed to be real at the time; and

(C) The belief of danger is founded upon reasonable grounds.

(c) Any person using force intended or likely to cause death or serious bodily injury within a residence, dwelling or vehicle is presumed to have held a reasonable belief of imminent death or serious bodily injury to self, family, a member of the household or a person visiting as an invited guest, when that force is used against another person, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence, dwelling or vehicle, and the person using defensive force knew or had reason to believe that an unlawful and forcible entry occurred.

(d) The presumption established in subsection (c) shall not apply, if:

(1) The person against whom the force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder; provided, that the person is not prohibited from entering the dwelling, residence, or occupied vehicle by an order of protection, injunction for protection from domestic abuse, or a court order of no contact against that person;

(2) The person against whom the force is used is attempting to remove a person or persons who is a child or grandchild of, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;

(3) Notwithstanding [§ 39-17-1322](#), the person using force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) The person against whom force is used is a law enforcement officer, as defined in [§ 39-11-106](#), who enters or attempts to enter a dwelling, residence, or vehicle in the performance of the officer's official duties, and the officer identified the officer in accordance with any applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(e) The threat or use of force against another is not justified:

(1) If the person using force consented to the exact force used or attempted by the other

individual;

(2) If the person using force provoked the other individual's use or attempted use of unlawful force, unless:

(A) The person using force abandons the encounter or clearly communicates to the other the intent to do so; and

(B) The other person nevertheless continues or attempts to use unlawful force against the person; or

(3) To resist a halt at a roadblock, arrest, search, or stop and frisk that the person using force knows is being made by a law enforcement officer, unless:

(A) The law enforcement officer uses or attempts to use greater force than necessary to make the arrest, search, stop and frisk, or halt; and

(B) The person using force reasonably believes that the force is immediately necessary to protect against the law enforcement officer's use or attempted use of greater force than necessary.

### **39-11-612. Defense of third person.**

A person is justified in threatening or using force against another to protect a third person, if:

(1) Under the circumstances as the person reasonably believes them to be, the person would be justified under [§ 39-11-611](#) in threatening or using force to protect against the use or attempted use of unlawful force reasonably believed to be threatening the third person sought to be protected; and

(2) The person reasonably believes that the intervention is immediately necessary to protect the third person.

### **39-11-614. Protection of property.**

(a) A person in lawful possession of real or personal property is justified in threatening or using force against another, when and to the degree it is reasonably believed the force is immediately necessary to prevent or terminate the other's trespass on the land or unlawful interference with the property.

(b) A person who has been unlawfully dispossessed of real or personal property is justified in threatening or using force against the other, when and to the degree it is reasonably believed the force is immediately necessary to reenter the land or recover the property, if the person threatens or uses the force immediately or in fresh pursuit after the dispossession:

(1) The person reasonably believes the other had no claim of right when the other dispossessed the person; and

(2) The other accomplished the dispossession by threatening or using force against the person.

(c) A person is not justified in using deadly force to prevent or terminate the other's trespass on real estate or unlawful interference with personal property.

**39-11-615. Protection of third person's property.**

A person is justified in threatening or using force against another to protect real or personal property of a third person, if, under the circumstances as the person reasonably believes them to be, the person would be justified under [§ 39-11-614](#) in threatening or using force to protect the person's own real or personal property.

**39-11-616. Use of device to protect property.**

(a) The justification afforded by [§§ 39-11-614](#) and [39-11-615](#) extends to the use of a device for the purpose of protecting property, only if:

(1) The device is not designed to cause or known to create a substantial risk of causing death or serious bodily harm;

(2) The use of the particular device to protect the property from entry or trespass is reasonable under the circumstances as the person believes them to be; and

(3) The device is one customarily used for such a purpose, or reasonable care is taken to make known to probable intruders the fact that it is used.

(b) Nothing in this section shall affect the law regarding the use of animals to protect property or persons.