

CR523 Defense of Habitation - Prosecution's Burden.

The defendant carries no burden to prove the defense of Defense of Habitation. In other words, the defendant is not required to prove [he/she] was justified in using force or force likely to cause death or serious bodily injury. Rather, the prosecution must prove beyond a reasonable doubt that the defendant was not justified in using force or force likely to cause death or serious bodily injury. The prosecution carries the burden of proof beyond a reasonable doubt. If the prosecution has not carried this burden, then you must find the defendant not guilty.

References:

Utah Code § 76-2-405

State v. Karr, 364 P.3d 49 (Utah App. 2015)

State v. Walker, 391 P.3d 380 (Utah App. 2017)

State v. Mitcheson, 560 P.2d 1120 (Utah 1977)

State v. Moritzsky, 771 P.2d 688 (Utah App. 1989)

State v. Patrick, 217 P.3d 1150 (Utah App. 2009)

Committee Note:

This instruction should be used with CR520, CR521, CR522, and CR510.

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