

## **CR1451 (Amended): Definition of imperfect self-defense**

Defense of Self or Other is also sometimes called *perfect* self-defense because it is a complete defense to [Aggravated Murder] [Attempted Aggravated Murder] [Murder] [Attempted Murder] [Manslaughter]. Another form of self-defense is called *imperfect* self-defense because it is only a partial defense, not a complete defense, to [Aggravated Murder] [Attempted Aggravated Murder] [Murder] [Attempted Murder]. Imperfect self-defense reduces the level of the offense.

Imperfect self-defense applies when the defendant [caused the death] [attempted to cause the death] of another while incorrectly, but reasonably, believing that his/her conduct was legally justified or excused. In other words, it applies when a defendant makes a reasonable mistake of law—when he acts under a reasonable belief that the circumstances provided a legal justification or excuse for his conduct although the conduct was not legally justifiable or excusable under the existing circumstances. The reasonable belief of the defendant shall be determined from the viewpoint of a reasonable person under the circumstances.

## **References**

*State v. Bonds*, 2023 UT 1, 524 P.3d 581

*State v. Lee*, 2014 UT App 4, ¶ 41-42, 318 P.3d 1164 (Voros, J., concurring)

*State v. Cabututan*, 2022 UT App 41, 508 P.3d 1003 (2022)

*State v. Silva*, 2019 UT 36, 456 P.3d 718

*State v. Low*, 2008 UT 58, 192 P.3d 867

*State v. Spillers*, 2007 UT 13, 152 P.3d 315

## **Committee Notes**

Whenever imperfect self-defense is submitted to the jury:

- In addition to other applicable self-defense instructions (*see* CR510 through CR543), use CR1451;
  - Use the “Special Verdict Imperfect Self-Defense” special verdict form;
  - Do not include “imperfect self-defense” as a defense in the elements instruction;
  - Imperfect self-defense does not apply to manslaughter;
- Always distinguish between perfect and imperfect self-defense throughout the instructions; and
- Add the following paragraph at the bottom of the aggravated murder, attempted aggravated murder, murder, or attempted murder elements instruction

If you find Defendant GUILTY beyond a reasonable doubt of [Aggravated Murder] [Attempted Aggravated Murder] [Murder] [Attempted

Murder], you must decide whether the defense of imperfect self-defense applies and complete the special verdict form concerning that defense. Imperfect self defense is addressed in Instruction \_\_\_\_.

In the rare circumstance where imperfect self-defense is available but perfect self-defense is not available, practitioners will have to modify this instruction as appropriate. For example, practitioners should include CR510 through CR540, as applicable, because the jury will have to understand basic principles of perfect self-defense in order to understand imperfect self-defense. The imperfect self-defense instruction should clearly state that even though the jury should not consider perfect self-defense, it must still consider imperfect self-defense.