

CR1451 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, 1452, and 1453;
- Always distinguish between “perfect self-defense” and “imperfect self-defense” throughout the instructions;
- Use the “Special Verdict Imperfect Self-Defense” special verdict form (SVF 1450);
- Imperfect self-defense is a defense to only four crimes: aggravated murder, attempted aggravated murder, murder, and attempted murder. It is not a defense to ~~does not apply to~~ manslaughter or attempted manslaughter;

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- Do not include as an element for aggravated murder, attempted aggravated murder, murder, or attempted murder: "The defense of "imperfect self-defense" does not apply;" 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~~
- Instead, a 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 State has proven beyond a reasonable doubt that the defense of imperfect self-defense does not applyies and complete the special verdict form concerning that defense. Imperfect self-defense is addressed in Instructions _____."

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.