

2021 Kansas Statutes

21-5220. Use of force; construction and application. The provisions of K.S.A. 2021 Supp. 21-5220 through 21-5230, and amendments thereto, are to be construed and applied retroactively.

History: L. 2010, ch. 124, § 1; L. 2011, ch. 30, § 3; July 1.

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21-5221. Use of force; definitions. (a) As used in article 32 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, K.S.A. 2021 Supp. 21-5202 through 21-5208, 21-5210 through 21-5212, and 21-5220 through 21-5231, and K.S.A. 2021 Supp. 21-3212a, 21-3220 and 21-3221, and amendments thereto:

(1) "Use of force" means any or all of the following directed at or upon another person or thing: (A) Words or actions that reasonably convey the threat of force, including threats to cause death or great bodily harm to a person; (B) the presentation or display of the means of force; or (C) the application of physical force, including by a weapon or through the actions of another.

(2) "Use of deadly force" means the application of any physical force described in paragraph (1) which is likely to cause death or great bodily harm to a person. Any threat to cause death or great bodily harm, including, but not limited to, by the display or production of a weapon, shall not constitute use of deadly force, so long as the actor's purpose is limited to creating an apprehension that the actor will, if necessary, use deadly force in defense of such actor or another or to affect a lawful arrest.

(b) An actor who threatens deadly force as described in subsection (a)(1) shall be subject to the determination in subsection (a) of K.S.A. 21-3211, prior to its repeal, or subsection (a) of K.S.A. 2021 Supp. 21-5222, and amendments thereto, and not to the determination in subsection (b) of K.S.A. 21-3211, prior to its repeal, or subsection (b) of K.S.A. 2021 Supp. 21-5222, and amendments thereto.

History: L. 2010, ch. 124, § 2; L. 2011, ch. 30, § 4; July 1.

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21-5222. **Same; defense of a person; no duty to retreat.** (a) A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such use of force is necessary to defend such person or a third person against such other's imminent use of unlawful force.

(b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person.

(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.

History: L. 2010, ch. 136, § 21; L. 2011, ch. 30, § 7; July 1.

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21-5223. **Same; defense of dwelling, place of work or occupied vehicle; no duty to retreat.** (a) A person is justified in the use of force against another when and to the extent that it appears to such person and such person reasonably believes that such use of force is necessary to prevent or terminate such other's unlawful entry into or attack upon such person's dwelling, place of work or occupied vehicle.

(b) A person is justified in the use of deadly force to prevent or terminate unlawful entry into or attack upon any dwelling, place of work or occupied vehicle if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or another.

(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person's dwelling, place of work or occupied vehicle.

History: L. 2010, ch. 136, § 22; L. 2011, ch. 30, § 8; July 1.

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21-5224. Use of force; presumptions. (a) For the purposes of K.S.A. 21-3211 and 21-3212, prior to their repeal, or K.S.A. 2021 Supp. 21-5222 and 21-5223, and amendments thereto, a person is presumed to have a reasonable belief that deadly force is necessary to prevent imminent death or great bodily harm to such person or another person if:

(1) The person against whom the force is used, at the time the force is used:

(A) Is unlawfully or forcefully entering, or has unlawfully or forcefully entered, and is present within, the dwelling, place of work or occupied vehicle of the person using force; or

(B) Has removed or is attempting to remove another person against such other person's will from the dwelling, place of work or occupied vehicle of the person using force; and

(2) The person using force knows or has reason to believe that any of the conditions set forth in paragraph (1) is occurring or has occurred.

(b) The presumption set forth in subsection (a) does not apply if, at the time the force is used:

(1) The person against whom the force is used has a right to be in, or is a lawful resident of, the dwelling, place of work or occupied vehicle of the person using force, and is not subject to any order listed in K.S.A. 21-3843, prior to its repeal, or K.S.A. 2021 Supp. 21-5924, and amendments thereto, that would prohibit such person's presence in the property;

(2) The person sought to be removed is a child, grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the force is used;

(3) The person using force is engaged in the commission of a crime, attempting to escape from a location where a crime has been committed, or is using the dwelling, place of work or occupied vehicle to further the commission of a crime; or

(4) The person against whom the force is used is a law enforcement officer who has entered or is attempting to enter a dwelling, place of work or occupied vehicle in the lawful performance of such officer's lawful duties, and the person using force knows or reasonably should know that the person who has entered or is attempting to enter is a law enforcement officer.

History: L. 2010, ch. 124, § 3; L. 2011, ch. 30, § 2; July 1.

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21-5225. **Same; defense of property other than a dwelling, place of work or occupied vehicle.** A person who is lawfully in possession of property other than a dwelling, place of work or occupied vehicle is justified in the use of force against another for the purpose of preventing or terminating an unlawful interference with such property. Only such use of force as a reasonable person would deem necessary to prevent or terminate the interference may intentionally be used.

History: L. 2010, ch. 136, § 23; L. 2011, ch. 30, § 9; July 1.

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21-5226. **Same; by an aggressor.** The justification described in K.S.A. 21-3211, 21-3212 and 21-3213, prior to their repeal, or K.S.A. 2021 Supp. 21-5222, 21-5223 and 21-5225, and amendments thereto, is not available to a person who:

- (a) Is attempting to commit, committing or escaping from the commission of a forcible felony;
- (b) initially provokes the use of any force against such person or another, with intent to use such force as an excuse to inflict bodily harm upon the assailant; or
- (c) otherwise initially provokes the use of any force against such person or another, unless:
 - (1) Such person has reasonable grounds to believe that such person is in imminent danger of death or great bodily harm, and has exhausted every reasonable means to escape such danger other than the use of deadly force; or
 - (2) in good faith, such person withdraws from physical contact with the assailant and indicates clearly to the assailant that such person desires to withdraw and terminate the use of such force, but the assailant continues or resumes the use of such force.

History: L. 2010, ch 136, § 24; L. 2011, ch. 30, § 10; July 1.

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21-5227. **Same; law enforcement officer making arrest.** (a) A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and the use of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay. (b) A law enforcement officer making an arrest pursuant to an invalid warrant is justified in the use of any force which such officer would be justified in using if the warrant were valid, unless such officer knows that the warrant is invalid.

History: L. 2010, ch 136, § 25; L. 2011, ch. 30, § 11; July 1.

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21-5230. Same; no duty to retreat. A person who is not engaged in an unlawful activity and who is attacked in a place where such person has a right to be has no duty to retreat and has the right to stand such person's ground and use any force which such person would be justified in using under article 32 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2021 Supp. 21-5202 through 21-5208, 21-5210 through 21-5212, and 21-5220 through 21-5231, and amendments thereto.

History: L. 2010, ch. 136, § 28; L. 2011, ch. 30, § 13; July 1.

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21-5231. **Same; immunity from prosecution or liability; investigation.** (a) A person who uses force which, subject to the provisions of K.S.A. 2021 Supp. 21-5226, and amendments thereto, is justified pursuant to K.S.A. 2021 Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, "criminal prosecution" includes arrest, detention in custody and charging or prosecution of the defendant.

(b) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (a), but the agency shall not arrest the person for using force unless it determines that there is probable cause for the arrest.

(c) A prosecutor may commence a criminal prosecution upon a determination of probable cause.

History: L. 2010, ch. 136, § 29; July 1, 2011.