

The Self Defense Laws Of Texas

Provided by the Law Office of Chad West

**The Texas Constitution
Article 1 - BILL OF RIGHTS
Section 23 - RIGHT TO KEEP AND BEAR ARMS**

"Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime."

**Self Defense Statutes
(Texas Penal Code)**

(a) Except as provided in Subsection (b), a person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other's use or attempted use of unlawful force.

(b) The use of force against another is not justified:

- (1) in response to **verbal provocation alone**;
- (2) to resist an arrest or search that the actor knows is being made by a peace officer . . .
- (3) if the actor consented to the exact force used or attempted by the other;
- (4) if the actor provoked the other's use or attempted use of unlawful force, unless
 - (A) the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and
 - (B) the other nevertheless continues or attempts to use unlawful force against the actor; or
- (5) if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:
 - (A) carrying a weapon in violation of Section 46.02; or
 - (B) possessing or transporting a weapon in violation of Section 46.05.

...

(d) The use of deadly force is not justified under this subchapter except as provided in Sections 9.32, 9.33, and 9.34.

Deadly Force in Defense of Person

"A person is justified in using deadly force against another if he would be justified in using force under Section 9.31 of the statute when and to the degree he reasonable believes that deadly force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly force, if a reasonable person in the same situation would have not retreated. The use of deadly force is also justified to prevent the other's imminent commission of aggravated kidnapping, murder, rape or robbery."

Defense of Another Person

"A person is justified in using deadly force against an attacker to protect another person if he would be justified to use it to protect himself against an unlawful attack and he reasonably believes his intervention is immediately necessary to protect the other person from serious injury or death."

Deadly Force to Protect Property

"A person is justified in using deadly force against another to protect his property to the degree he reasonably believes the force is immediately necessary to prevent the other's imminent commission of arson, burglary, robbery, theft during the nighttime or criminal mischief during the nighttime, and he reasonably believes that the property cannot be protected by any other means."

"A person is justified in using deadly force against another to pervent the other who is fleeing after committing burglary, robbery, or theft during the nighttime, from escaping with the property and he reasonable believes that the property cannot be recovered by any other means; or, the use of force other than deadly force to protect or recover the property would expose him

or another to a substantial risk of death or serious bodily injury. (Nighttime is defined as the period 30 min. after sunset until 30 min. before sunrise.)"

Protection of the Property of Others

"A person is justified in using force or deadly force against another to protect the property of a third person if he reasonably believes he would be justified to use similar force to protect his own property, and he reasonably believes that there existed an attempt or actual commission of the crime of theft or criminal mischief."

"Also, a person is justified in using force or deadly force if he reasonably believes that the third person has requested his protection of property; or he has a legal duty to protect the property; or the third person whose property he is protecting is a spouse, parent or child."

Reasonable Belief

"It is not necessary that there should be actual danger, as a person has the right to defend his life and person from apparent danger as fully and to the same extent as he would have were the danger real, as it reasonably appeared to him from his standpoint at the time."

"In fact, Sec 9.31(a) [of the Penal Code] expressly provides that a person is justified in using deadly force against another when and to the degree he *reasonably believes* the force is immediately necessary."

Justification for Using Deadly Force Can Be Lost

"Even though a person is justified in threatening or using force or deadly force against another in self defense or defense of others or property as described in the statute, if in doing so he also recklessly injures or kills an innocent third person, the justification for deadly force is unavailable."

"A person acts recklessly when he is aware of but consciously disregards a substantial and unjustifiable risk with respect to the circumstances surrounding his conduct or the results of his conduct. The risk must be of such a nature and degree that its disregard constitutes a gross deviation of the standard of care that an ordinary person would exercise, viewed from the person's standpoint under all the circumstances existing at the time."

Self Defense Definitions

"Assault is committed if a person intentionally, knowingly or recklessly threatens another with imminent bodily injury, causes bodily injury to another, or causes physical contact with another when he knows or should reasonably believe that the other will regard the contact as offensive or provocative." "**Aggravated** assault is committed if a person commits Assault (qv.) and causes serious bodily injury to another, or causes bodily injury to a peace officer, or uses a deadly weapon."

"Burglary is committed if, without the effective consent of the owner, a person: 1) Enters a building, or any portion of a building, not open to the public with intent to commit a felony or theft, or 2) Remains concealed in a building with the intent to commit a felony or theft."

"Criminal Mischief is committed if, without the effective consent of the owner, a person: 1) Intentionally or knowingly damages or destroys the property of the owner, or 2) Tampered with the property of the owner and causes momentary loss or sustained inconvenience to the owner or third person."

FOR MORE INFORMATION ABOUT YOUR RIGHT TO DEFEND YOURSELF, YOUR FAMILY, AND YOUR HOME, CONTACT THE LAW OFFICE OF CHAD WEST, AN EXPERIENCED CRIMINAL DEFENSE FIRM.



614 N. Bishop Avenue, Suite 2
Dallas, Texas 75208
www.chadwestlaw.com
chad@chadwestlaw.com
(214) 509-7555

