

REFERENCE TITLE: justification; crime prevention; criminal damage

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1650**

Introduced by  
Senator Ugenti-Rita

AN ACT

AMENDING SECTIONS 13-205, 13-411, 13-1602, 13-4903 AND 13-4904, ARIZONA  
REVISED STATUTES; RELATING TO JUSTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-205, Arizona Revised Statutes, is amended to  
3 read:

4 13-205. Affirmative defenses; justification; burden of proof

5 A. Except as otherwise provided by law, a defendant shall prove any  
6 affirmative defense raised by a preponderance of the evidence.  
7 Justification defenses under chapter 4 of this title are not affirmative  
8 defenses. Justification defenses describe conduct that, if not justified,  
9 would constitute an offense but, if justified, does not constitute  
10 criminal or wrongful conduct. If evidence of justification pursuant to  
11 chapter 4 of this title is presented by the defendant, the state must  
12 prove beyond a reasonable doubt that the defendant did not act with  
13 justification.

14 B. This section does not affect the presumption contained in  
15 section 13-411, subsection ~~C~~ D and section 13-503.

16  
17 Sec. 2. Section 13-411, Arizona Revised Statutes, is amended to  
18 read:

19 13-411. Justification; use of force in crime prevention;  
20 applicability

21 A. A person is justified in threatening or using both physical  
22 force and deadly physical force against another if and to the extent the  
23 person reasonably believes that physical force or deadly physical force is  
24 immediately necessary to prevent the other's commission of arson of an  
25 occupied structure under section 13-1704, burglary in the second or first  
26 degree under section 13-1507 or 13-1508, kidnapping under section 13-1304,  
27 manslaughter under section 13-1103, second or first degree murder under  
28 section 13-1104 or 13-1105, sexual conduct with a minor under section  
29 13-1405, sexual assault under section 13-1406, child molestation under  
30 section 13-1410, armed robbery under section 13-1904 or aggravated assault  
31 under section 13-1204, subsection A, paragraphs 1 and 2.

32 B. ~~THE OWNER OR OWNER'S REPRESENTATIVE OF THE PROPERTY OR THE OWNER~~  
33 ~~OR THE OWNER'S REPRESENTATIVE OF THE LAND ON WHICH THE PROPERTY IS LOCATED~~  
34 ~~AT THE TIME OF THE COMMISSION OF THE OFFENSE IS JUSTIFIED IN THREATENING~~  
35 ~~OR USING BOTH PHYSICAL FORCE AND DEADLY PHYSICAL FORCE AGAINST ANOTHER IF~~  
36 ~~AND TO THE EXTENT THE OWNER OR OWNER'S REPRESENTATIVE REASONABLY BELIEVES~~  
37 ~~THAT PHYSICAL FORCE OR DEADLY PHYSICAL FORCE IS IMMEDIATELY NECESSARY TO~~  
38 ~~PREVENT THE OTHER'S COMMISSION OF CRIMINAL DAMAGE UNDER SECTION 13-1602,~~  
39 ~~SUBSECTION A, PARAGRAPH 7.~~

40 ~~B~~: C. There is no duty to retreat before threatening or using  
41 physical force or deadly physical force justified by subsection A ~~OR B~~ of  
42 this section.

43 ~~C~~: D. A person is presumed to be acting reasonably for the  
44 purposes of this section if the person is acting to prevent what the

1 person reasonably believes is the imminent or actual commission of any of  
2 the offenses listed in subsection A OR B of this section.

3 ~~D.~~ E. SUBSECTION A OF this section includes the use or threatened  
4 use of physical force or deadly physical force in a person's home,  
5 residence, OR place of business, ON land the person owns or leases, IN OR  
6 ON A conveyance of any kind, or IN any other place in this state where a  
7 person has a right to be.

8 Sec. 3. Section 13-1602, Arizona Revised Statutes, is amended to  
9 read:

10 13-1602. Criminal damage; classification

11 A. A person commits criminal damage by:

- 12 1. Recklessly defacing or damaging property of another person.
- 13 2. Recklessly tampering with property of another person so as  
14 substantially to impair its function or value.
- 15 3. Recklessly damaging property of a utility.
- 16 4. Recklessly parking any vehicle in such a manner as to deprive  
17 livestock of access to the only reasonably available water.
- 18 5. Recklessly drawing or inscribing a message, slogan, sign or  
19 symbol that is made on any public or private building, structure or  
20 surface, except the ground, and that is made without permission of the  
21 owner.

22 6. Intentionally tampering with utility property.

23 7. KNOWINGLY DEFACING OR DAMAGING PROPERTY OF ANOTHER PERSON WHILE  
24 POSSESSING A DEADLY WEAPON OR DANGEROUS INSTRUMENT.

25 B. Criminal damage is punished as follows:

26 1. CRIMINAL DAMAGE IS A CLASS 3 FELONY IF THE PERSON VIOLATES  
27 SUBSECTION A, PARAGRAPH 7 OF THIS SECTION.

28 ~~1.~~ 2. Criminal damage is a class 4 felony if the person recklessly  
29 damages property of another in an amount of ~~ten thousand dollars~~ \$10,000  
30 or more.

31 ~~2.~~ 3. Criminal damage is a class 4 felony if the person recklessly  
32 damages the property of a utility in an amount of ~~five thousand dollars~~  
33 \$5,000 or more or if the person intentionally tampers with utility  
34 property and the damage causes an imminent safety hazard to any person.

35 ~~3.~~ 4. Criminal damage is a class 5 felony if the person recklessly  
36 damages property of another in an amount of ~~two thousand dollars~~ \$2,000 or  
37 more but less than ~~ten thousand dollars~~ \$10,000 or if the damage is  
38 inflicted to promote, further or assist any criminal street gang or  
39 criminal syndicate with the intent to intimidate and the person is not  
40 subject to paragraph 1 or 2 of this subsection.

41 ~~4.~~ 5. Criminal damage is a class 6 felony if the person recklessly  
42 damages property of another in an amount of ~~one thousand dollars~~ \$1,000 or  
43 more but less than ~~two thousand dollars~~ \$2,000.

1       ~~5.~~ 6. Criminal damage is a class 1 misdemeanor if the person  
2 recklessly damages property of another in an amount of more than ~~two~~  
3 ~~hundred fifty dollars~~ \$250 but less than ~~one thousand dollars~~ \$1,000.

4       ~~6.~~ 7. In all other cases criminal damage is a class 2 misdemeanor.

5       C. For a violation of subsection A, paragraph 5 of this section, in  
6 determining the amount of damage to property, damages include reasonable  
7 labor costs of any kind, reasonable material costs of any kind and any  
8 reasonable costs that are attributed to equipment that is used to abate or  
9 repair the damage to the property.

10       Sec. 4. Section 13-4903, Arizona Revised Statutes, is amended to  
11 read:

12       13-4903. Use of force; armed nuclear security guards

13       A. An armed nuclear security guard is justified in using physical  
14 force against another person at a commercial nuclear generating station or  
15 structure or fenced yard of a commercial nuclear generating station if the  
16 armed nuclear security guard reasonably believes that such force is  
17 necessary to prevent or terminate the commission or attempted commission  
18 of criminal damage under section 13-1602, subsection A, paragraph 3 and  
19 subsection B, paragraph ~~1 or~~ 2 OR 3, misconduct involving weapons under  
20 section 13-3102, subsection A, paragraph 13 or criminal trespass on a  
21 commercial nuclear generating station under section 13-4902.

22       B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408,  
23 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in  
24 using physical force up to and including deadly physical force against  
25 another person at a commercial nuclear generating station or structure or  
26 fenced yard of a commercial nuclear generating station if the armed  
27 nuclear security guard reasonably believes that such force is necessary  
28 to:

29       1. Prevent the commission of manslaughter under section 13-1103,  
30 second or first degree murder under section 13-1104 or 13-1105, aggravated  
31 assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping  
32 under section 13-1304, burglary in the second or first degree under  
33 section 13-1507 or 13-1508, arson of a structure or property under section  
34 13-1703, arson of an occupied structure under section 13-1704, armed  
35 robbery under section 13-1904 or an act of terrorism under section  
36 13-2308.01.

37       2. Defend oneself or a third person from the use or imminent use of  
38 deadly physical force.

39       C. Notwithstanding any other provision of this chapter, an armed  
40 nuclear security guard is justified in threatening to use physical or  
41 deadly physical force if and to the extent a reasonable armed nuclear  
42 security guard believes it necessary to protect oneself or others against  
43 another person's potential use of physical force or deadly physical force.

1 D. An armed nuclear security guard is not subject to civil  
2 liability for engaging in conduct that is otherwise justified pursuant to  
3 this chapter.

4 Sec. 5. Section 13-4904, Arizona Revised Statutes, is amended to  
5 read:

6 13-4904. Detention authority; armed nuclear security guards

7 A. An armed nuclear security guard, with reasonable belief, may  
8 detain in or on a commercial nuclear generating station or a structure or  
9 fenced yard of a commercial nuclear generating station in a reasonable  
10 manner and for a reasonable time any person who is suspected of committing  
11 or attempting to commit manslaughter under section 13-1103, second or  
12 first degree murder under section 13-1104 or 13-1105, aggravated assault  
13 under section 13-1204, subsection A, paragraph 1 or 2, kidnapping under  
14 section 13-1304, burglary in the second or first degree under section  
15 13-1507 or 13-1508, criminal damage under section 13-1602, subsection A,  
16 paragraph 3 and subsection B, paragraph ~~1~~ OR 2 OR 3, arson of a structure  
17 or property under section 13-1703, arson of an occupied structure under  
18 section 13-1704, armed robbery under section 13-1904, an act of terrorism  
19 under section 13-2308.01, misconduct involving weapons under section  
20 13-3102, subsection A, paragraph 13 or criminal trespass on a commercial  
21 nuclear generating station under section 13-4902 for the purpose of  
22 summoning a law enforcement officer.

23 B. Reasonable belief of an armed nuclear security guard is a  
24 defense to a civil or criminal action against an armed nuclear security  
25 guard for false arrest, false or unlawful imprisonment or wrongful  
26 detention.