

## §101. General rules for defenses and affirmative defenses; justification

1. The State is not required to negate any facts expressly designated as a "defense," or any exception, exclusion or authorization that is set out in the statute defining the crime by proof at trial, unless the existence of the defense, exception, exclusion or authorization is in issue as a result of evidence admitted at the trial that is sufficient to raise a reasonable doubt on the issue, in which case the State must disprove its existence beyond a reasonable doubt. This subsection does not require a trial court to instruct on an issue that has been waived by the defendant. The subject of waiver is addressed by the Maine Rules of Unified Criminal Procedure.

[PL 2015, c. 431, §35 (AMD).]

2. Where the statute explicitly designates a matter as an "affirmative defense," the matter so designated must be proved by the defendant by a preponderance of the evidence.

[PL 1981, c. 324, §24 (RPR).]

3. Conduct that is justifiable under this chapter constitutes a defense to any crime; except that, if a person is justified in using force against another, but the person recklessly injures or creates a risk of injury to 3rd persons, the justification afforded by this chapter is unavailable in a prosecution for such recklessness. If a defense provided under this chapter is precluded solely because the requirement that the person's belief be reasonable has not been met, the person may be convicted only of a crime for which recklessness or criminal negligence suffices.

[PL 2007, c. 475, §10 (AMD).]

4. The fact that conduct may be justifiable under this chapter does not abolish or impair any remedy for such conduct which is available in any civil action.

[PL 1981, c. 324, §24 (NEW).]

5. For purposes of this chapter, use by a law enforcement officer, a corrections officer or a corrections supervisor of the following is use of nondeadly force:

A. Chemical mace or any similar substance composed of a mixture of gas and chemicals that has or is designed to have a disabling effect upon human beings; or [PL 2009, c. 336, §5 (NEW).]

B. A less-than-lethal munition that has or is designed to have a disabling effect upon human beings. For purposes of this paragraph, "less-than-lethal munition" means a low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy. [PL 2009, c. 336, §5 (NEW).]

[PL 2009, c. 336, §5 (RPR).]

### SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §24 (RPR). PL 1997, c. 185, §1 (AMD). PL 1999, c. 358, §1 (AMD). PL 2001, c. 386, §1 (AMD). PL 2007, c. 475, §10 (AMD). PL 2009, c. 336, §5 (AMD). PL 2015, c. 431, §35 (AMD).

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