

Key Legal Principles of Self-Defence in Alberta / Canada

1. Statutory Basis

- Self-defence is governed by **Section 34** of the *Criminal Code of Canada* (the “Defence — use or threat of force”). A person is not guilty of an offence if they meet certain criteria regarding a belief that force was being used or threatened, that their actions were for protection, and that the force used was reasonable in the circumstances. ([criminal-code.ca](https://www.criminal-code.ca))
- Where an assault was provoked by the accused, **Section 35** gives a defence under certain conditions (reasonable apprehension of death or grievous bodily harm, belief that there was no alternative, etc.). ([criminal-code.ca](https://www.criminal-code.ca))

2. Three-Part Test for Self-Defence (Defence of Person)

To rely on self-defence, the accused must generally satisfy all of the following:

a) **Belief** — They must believe, on reasonable grounds, that force is being used against them or threatened, or that someone else is under threat.

([criminal-code.ca](https://www.criminal-code.ca))

b) **Purpose** — The act must be for the purpose of defending or protecting themselves or another from the threat. ([criminal-code.ca](https://www.criminal-code.ca))

c) **Reasonableness** — The force used must be reasonable in the circumstances (proportional, necessary, etc.). ([criminal-code.ca](https://www.criminal-code.ca))

3. Factors in Assessing Reasonableness

“Reasonableness” is evaluated based on all relevant circumstances, which may include (but are not limited to):

- Nature of the threat or assault (how immediate, severe, etc.) ([Ministère de la Justice](https://www.justice.gc.ca/eng/ministere-de-la-justice/))
- Whether there was a weapon involved, or threat of a weapon. ([Wyman & Williamson](#))
- The age, sex/gender, physical ability/size of all parties involved. ([Wyman & Williamson](#))

- Any opportunity to retreat or avoid using force, where feasible. ([Justice Laws Website](#))
- Whether the accused provoked the confrontation.

4. Limits on Using Deadly Force or Causing Grievous Bodily Harm

- Force intended or likely to cause death or grievous bodily harm is only justified if the accused believes on reasonable grounds that it is necessary for self-preservation or preserving someone under their protection. §25(3) of the Code is relevant. ([criminal-code.ca](#))
- If the person first provoked the assault, they must still satisfy conditions under Section 34, including belief that serious harm was likely and that there was no other way to avoid it.

5. Onus / Burden of Proof

- It is *not* on the accused to prove self-defence beyond a reasonable doubt. Once the defence is raised and there is some evidence supporting self-defence, the Crown must prove beyond a reasonable doubt that the defendant's conduct was not justified under the law. ([Calgary Law](#))

6. Self-Defence of Property, Others, & Threats

- Self-defence applies to defending oneself *or* another person. ([CanLII](#))
- Use of force to defend property is more limited; what is "reasonable" will be stricter, especially if threat to property only, vs. threat to person. ([Ministère de la Justice](#))

7. What Does *Not* Count

- Excessive force: Even if there is a valid belief of threat, using more force than necessary can negate the defence. ([Wyman & Williamson](#))
- Provoking the attack: If the accused provoked the attack, that can reduce or remove the ability to rely on self-defence unless specific conditions are met under Section 35.

- Acting with wrongful intent: self-defence must be about protection, not revenge, retaliation beyond threat.
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Specifics in Alberta

- There is **no separate provincial statute** in Alberta that modifies the federal Criminal Code's self-defence provisions; Alberta follows the national law.
- In case law in Alberta, courts consistently apply the above sections (especially Section 34) when determining whether an accused acted in self-defence. For example, *R v. J.A.W.* (2006) is a case in Alberta where self-defence was successful under the federal law. ([vLex](#))