

Justification: Self-Defense - Defense Of Others

At early common law, the right to defend others was only extended to family members and employees. In addition, an intervenor's force was only justified if the third party being defended would in fact also have been justified in self-defense; the intervenor was put in the shoes of the party being defended. These limitations on the right to defend others—the act-at-peril rule—has now become the minority rule. The majority rule, largely through the influence of the MPC, is that an intervenor may come to the aid of any person if the intervenor reasonably believes that such force is necessary to defend a third party from unlawful force.

The limitation on who may be aided may be defended by the greater chance of error when defending another as compared to defending oneself. But where an intervenor was defending a family member or employee, rather than a stranger, this risk of error was reduced. Furthermore, the efficacy of a rule prohibiting one from defending a family member would likely have little deterrent effect. The act-at-peril rule also reflects the concern that, due to the enhanced risk of error in defense of others, the preservation of life would be better promoted by restricting defense of others (Wechsler and Michael). An intervenor mistakenly coming to the aid of a criminal being lawfully arrested by undercover officers may have been a particular concern (*People v. Young*, 183 N.E.2d 319 (N.Y. 1962)).

The modern majority rule views these concerns as being outweighed by the importance of citizens not being deterred from coming to the aid of others in need. Furthermore, punishing intervenors for the use of force despite the reasonable appearance that such force was necessary might entail punishing nonblameworthy conduct. The MPC largely applies the majority rule (section 3.05).

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