

AMENDMENT TO RULES COMMITTEE PRINT 116-

19

OFFERED BY MR. GOHMERT OF TEXAS

At the end of subtitle D of title V, add the following
new section:

1 **SEC. 5__ . CODIFICATION OF RULES RELATING TO SELF**
2 **DEFENSE IN UNIFORM CODE OF MILITARY**
3 **JUSTICE.**

4 (a) IN GENERAL.—Subchapter X of chapter 47 of
5 title 10, United States Code (the Uniform Code of Military
6 Justice), is amended by adding at the end the following
7 new section:

8 **“§ 934a. Art. 134a. Self defense**

9 “(a) HOMICIDE OR ASSAULT CASES INVOLVING
10 DEADLY FORCE.— It is a defense to a homicide, assault
11 involving deadly force, or battery involving deadly force
12 that the accused—

13 “(1) apprehended, on reasonable grounds, that
14 death or grievous bodily harm was about to be in-
15 flicted wrongfully on the accused; and

16 “(2) believed that the force the accused used
17 was necessary for protection against death or griev-
18 ous bodily harm.

1 “(b) CERTAIN AGGRAVATED ASSAULT CASES.—It is
2 a defense to assault with a dangerous weapon or means
3 likely to produce death or grievous bodily harm that the
4 accused—

5 “(1) apprehended, on reasonable grounds, that
6 bodily harm was about to be inflicted wrongfully on
7 the accused; and

8 “(2) in order to deter the assailant, offered but
9 did not actually apply or attempt to apply such
10 means or force as would be likely to cause death or
11 grievous bodily harm.

12 “(c) OTHER ASSAULTS.—It is a defense to any as-
13 sault punishable under section 889, 891, or 928 (article
14 89, 91, or 128) and not listed in subsections (a) or (b)
15 that the accused—

16 “(1) apprehended, upon reasonable grounds,
17 that bodily harm was about to be inflicted wrong-
18 fully on the accused; and

19 “(2) believed that the force that accused used
20 was necessary for protection against bodily harm,
21 provided that the force used by the accused was less
22 than force reasonably likely to produce death or
23 grievous bodily harm.

24 “(d) LOSS OF RIGHT TO SELF-DEFENSE.—The right
25 to self-defense is lost and the defenses described in sub-

1 sections (a) through (c) shall not apply if the accused was
2 an aggressor, engaged in mutual combat, or provoked the
3 attack which gave rise to the apprehension, unless the ac-
4 cused had withdrawn in good faith after the aggression,
5 combat, or provocation and before the offense alleged oc-
6 curred.

7 “(e) DEFENSE OF ANOTHER.—The principles of self-
8 defense under subsections (a) through (d) apply to defense
9 of another. It is a defense to homicide, attempted homi-
10 cide, assault with intent to kill, or any assault under sec-
11 tion 889, 891, or 928 (article 89, 91, or 128) that the
12 accused acted in defense of another, provided that the ac-
13 cused may not use more force than the person defended
14 was lawfully entitled to use under the circumstances.

15 “(f) SELF-DEFENSE AND DEFENSE OF A THIRD
16 PARTY IN A COMBAT THEATRE.—It is a defense to a
17 crime of violence, including homicide and assault, if at the
18 time of the commission of the acts constituting the of-
19 fense, the accused was deployed to a combat theater of
20 operations and reasonably believed that such acts would
21 protect the accused or a fellow member of the armed
22 forces from death or grievous bodily harm from subversive
23 enemy activity.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of such subchapter is amended by insert-

1 ing after the item relating to section 934 (article 134) the

2 following new item:

“934a. Art. 134a. Self defense.”.

