

# SENATE BILL REPORT

## SB 5278

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As Reported By Senate Committee On:  
Law & Justice, February 21, 1995

**Title:** An act relating to awards to persons found not guilty by reason of self defense.

**Brief Description:** Revising provisions relating to awards to persons found not guilty by reason of self defense.

**Sponsors:** Senators Wojahn, Oke, Gaspard, Winsley, Franklin, Long, Rasmussen and Wood.

**Brief History:**

**Committee Activity:** Law & Justice: 2/20/95, 2/21/95 [DPS].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5278 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, Roach and Schow.

**Staff:** Susan Carlson (786-7418)

**Background:** Washington law provides that no person shall be placed in legal jeopardy for acting in self-defense. If a criminal defendant is found not guilty based on self-defense, and the trier of fact finds self-defense was justified by a preponderance of the evidence, the state must pay all expenses incurred by the defendant in defending against the charge.

In some cases, defendants found not guilty based on self-defense were themselves engaged in criminal conduct at the time they defended themselves. For example, a defendant recently charged with murder and assault was acquitted based on self-defense. The trial court denied the defendant's recovery of expenses because on the day of the incident, the defendant had ingested cocaine and alcohol, armed himself with a loaded shotgun, and deliberately sought out a drug transaction in a high-crime area. When the drug deal went bad, a confrontation ensued and the defendant shot two people, wounding one and killing the other. The Court of Appeals reversed the trial court and awarded the expenses to the defendant based on the current Washington statute. Concern has been raised that this situation was not what the Legislature intended the self-defense reimbursement statute to cover.

**Summary of Substitute Bill:** The statute requiring the state to pay the legal expenses of a defendant found not guilty by reason of self-defense is amended. Notwithstanding a finding of self-defense, the court may deny or reduce the amount of expenses awarded if the trier of fact finds that the defendant was engaged in criminal conduct substantially related to the events giving rise to the charges filed against the defendant.

**Substitute Bill Compared to Original Bill:** Instead of providing for a denial of an award, the court is allowed the discretion of reducing or denying an award.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Persons involved in criminal conduct should not be reimbursed by the state, even if they are found not guilty because they were defending themselves. Judges should be able to deny the award, or at least reduce it as provided in the substitute version.

**Testimony Against:** None.

**Testified:** Senator Wojahn, prime sponsor.