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**SUBSTITUTE SENATE BILL 5278**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Wojahn, Oke, Gaspard, Winsley, Franklin, Long, Rasmussen and Wood)

Read first time 02/23/95.

1 AN ACT Relating to awards to persons found not guilty by reason of  
2 self-defense; and amending RCW 9A.16.110.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.16.110 and 1989 c 94 s 1 are each amended to read  
5 as follows:

6 (1) No person in the state shall be placed in legal jeopardy of any  
7 kind whatsoever for protecting by any reasonable means necessary,  
8 himself or herself, his or her family, or his or her real or personal  
9 property, or for coming to the aid of another who is in imminent danger  
10 of or the victim of assault, robbery, kidnapping, arson, burglary,  
11 rape, murder, or any other ((heinous)) violent crime as defined in RCW  
12 9.94A.030.

13 (2) When a ((substantial question of self-defense in such a case  
14 shall exist which needs legal investigation or court action for the  
15 full determination of the facts, and the defendant's actions are  
16 subsequently found justified under the intent of this section)) person  
17 charged with a crime listed in subsection (1) of this section is found  
18 not guilty by reason of self-defense, the state of Washington shall  
19 ((indemnify or)) reimburse ((such)) the defendant for all reasonable

1 costs, including loss of time, legal fees incurred, (~~or~~) and other  
2 expenses involved in his or her defense. This (~~indemnification or~~)  
3 reimbursement (~~is an award of reasonable costs which include loss of~~  
4 time, legal fees, or other expenses and) is not an independent cause  
5 of action. (~~The determination of an award shall be by the judge or~~  
6 jury at the discretion of the judge in the criminal proceeding.) To  
7 award these reasonable costs the trier of fact must find that the  
8 defendant's claim of self-defense was sustained by a preponderance of  
9 the evidence(~~(: PROVIDED, HOWEVER, That nothing shall preclude)~~). If  
10 the trier of fact makes a determination of self-defense, the judge  
11 shall determine the amount of the award.

12 (3) Notwithstanding a finding that a defendant's actions were  
13 justified by self-defense, if the trier of fact also determines that  
14 the defendant was engaged in criminal conduct substantially related to  
15 the events giving rise to the charges filed against the defendant the  
16 judge may deny or reduce the amount of the award. In determining the  
17 amount of the award, the judge shall also consider the seriousness of  
18 the initial criminal conduct.

19 Nothing in this section precludes the legislature from (~~granting~~  
20 a higher award through) using the sundry claims process to grant an  
21 award where none was granted under this section or to grant a higher  
22 award than one granted under this section.

23 ~~((3))~~ (4) Whenever the issue of self-defense under this section  
24 is decided by a judge (~~or whenever a judge exercises the discretion~~  
25 authorized under subsection (2) of this section in determining an  
26 award), the judge shall consider the same questions as must be  
27 answered in the special verdict under subsection (4) of this section.

28 ~~((4))~~ (5) Whenever the issue of self-defense under this section  
29 has been submitted to a jury, and the jury has found the defendant not  
30 guilty, (~~and the judge has submitted an award determination to the~~  
31 jury,) the court shall instruct the jury to return a special verdict  
32 in substantially the following form:

33 answer  
34 yes or no  
35 1. Was the finding of not guilty based upon  
36 self-defense? . . . . .  
37 2. If your answer to question 1 is no, do not  
38 answer the remaining question.

- 1           3. If your answer to question 1 is yes, was the  
2           defendant:  
3           a. Protecting himself or herself?           . . . . .  
4           b. Protecting his or her family?           . . . . .  
5           c. Protecting his or her property?           . . . . .  
6           d. Coming to the aid of another who was in imminent  
7           danger of a heinous crime?           . . . . .  
8           e. Coming to the aid of another who was the victim  
9           of a heinous crime?           . . . . .  
10          f. Engaged in criminal conduct substantially  
11          related to the events giving rise to the crime  
12          with which the defendant is charged?           . . . . .

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