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SENATE BILL 5278

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State of Washington

54th Legislature

1995 Regular Session

By Senators Wojahn, Oke, Gaspard, Winsley, Franklin, Long, Rasmussen and Wood

Read first time 01/18/95. Referred to Committee on Law & Justice.

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 crime.

12 (2) When a substantial question of self-defense in such a case  
13 shall exist which needs legal investigation or court action for the  
14 full determination of the facts, and the defendant's actions are  
15 subsequently found justified under the intent of this section, the  
16 state of Washington shall indemnify or reimburse such defendant for all  
17 loss of time, legal fees, or other expenses involved in his or her  
18 defense. This indemnification or reimbursement is an award of  
19 reasonable costs which include loss of time, legal fees, or other

1 expenses and is not an independent cause of action. The determination  
2 of an award shall be by the judge or jury at the discretion of the  
3 judge in the criminal proceeding. To award these reasonable costs the  
4 trier of fact must find that the defendant's claim of self-defense was  
5 sustained by a preponderance of the evidence(~~(: PROVIDED, HOWEVER,~~  
6 ~~That nothing shall preclude)~~). Notwithstanding a finding that a  
7 defendant's actions were justified by self defense, no award may be  
8 made under this section if the trier of fact determines that the  
9 defendant was engaged in criminal conduct substantially related to the  
10 events giving rise to the charges filed against the defendant. Nothing  
11 in this section precludes the legislature from ((granting a higher  
12 award through)) using the sundry claims process to grant an award where  
13 none was granted under this section or to grant a higher award than one  
14 granted under this section.

15 (3) Whenever the issue of self-defense under this section is  
16 decided by a judge or whenever a judge exercises the discretion  
17 authorized under subsection (2) of this section in determining an  
18 award, the judge shall consider the same questions as must be answered  
19 in the special verdict under subsection (4) of this section.

20 (4) Whenever the issue of self-defense under this section has been  
21 submitted to a jury, and the jury has found the defendant not guilty,  
22 and the judge has submitted an award determination to the jury, the  
23 court shall instruct the jury to return a special verdict in  
24 substantially the following form:

	answer
	yes or no
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1. Was the finding of not guilty based upon self-defense? . . . . .

2. If your answer to question 1 is no, do not answer the remaining question.

3. If your answer to question 1 is yes, was the defendant:

a. Protecting himself or herself? . . . . .

b. Protecting his or her family? . . . . .

c. Protecting his or her property? . . . . .

d. Coming to the aid of another who was in imminent danger of a heinous crime? . . . . .

e. Coming to the aid of another who was the victim of a heinous crime? . . . . .

1            f. Engaged in criminal conduct substantially  
2            related to the events giving rise to the crime  
3            with which the defendant is charged? . . . . .

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