

HOUSE BILL REPORT

HB 2543

As Reported By House Committee On:
Judiciary

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: Representatives Wang, R. Fisher, Long, Mielke and Wood.

Brief History:

Reported by House Committee on:
Judiciary, February 1, 1994, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Appelwick, Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Chappell; Eide; J. Kohl; Long; Morris; H. Myers; Schmidt; Scott and Tate.

Staff: Bill Perry (786-7123).

Background: A statute gives any person complete immunity from liability for protecting "by any reasonable means necessary" any of the following:

1. herself or himself;
2. her or his family;
3. her or his real or personal property; or
4. another person from any "heinous crime."

Some "heinous" crimes are identified. Those crimes are assault, robbery, kidnapping, arson, burglary, rape and murder.

Many of the provisions of the statute refer only to "self-" defense. However, the entire law appears to be intended to apply to the protection of a person's property as well as self and to apply to family members and to other persons in certain situations as noted above.

If a criminal defendant is found not guilty based on self-defense and the self-defense is justified and sustained by a preponderance of the evidence, then the state must pay all of the defendant's expenses of defending against the criminal charge. The expenses that the state must cover include lost time from work, legal fees and any other expense involved in the defense.

This statute has sometimes been employed successfully by defendants who were themselves engaged in criminal conduct at the time they defended themselves. In a recent case, a defendant charged with murder and assault was acquitted based on self-defense. The trial court denied the defendant's recovery of his 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 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. State v. Sampson, No. 15952-0-II, Court of Appeals, Division Two, decided December 27, 1993.

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 award may be denied if the trier of fact determines 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: The original bill directs the judge to determine if the defendant was engaged in criminal conduct. The substitute directs the jury to make this determination.

Fiscal Note: Not requested.

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

Testimony For: No one intended that drug dealers who shoot other drug dealers should have their legal expenses paid for by the state. The bill appropriately limits the kinds of cases in which the state will pay these expenses.

Testimony Against: None.

Witnesses: John Ladenburg, Washington Association of Prosecuting Attorneys (pro).