

**SENATE BILL REPORT**

**SHB 2543**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 25, 1994**

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

**SPONSORS:** House Committee on Judiciary (originally sponsored by Representatives Wang, R. Fisher, Long, Mielke and Wood)

**HOUSE COMMITTEE ON JUDICIARY**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass as amended.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Niemi, Quigley, Roach, Schow and Spanel.

**Staff:** Susan Mahoney (786-7717)

**Hearing Dates:** February 24, 1994; February 25, 1994

**BACKGROUND:**

Washington law provides that no person shall be placed in legal jeopardy for protecting him or herself, his or her family, or his or her real or personal property, or for coming to the aid of another who is in imminent danger, or for coming to the aid of a victim of certain types of crime. 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 defending against the charge. In some cases, defendants found not guilty based on self-defense were engaged in criminal conduct related to the circumstances which gave rise to the need to self-defend.

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 finding 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 deal in a high crime area. When the drug deal went bad, a confrontation ensued that resulted in the defendant shooting two people. The Court of Appeals reversed the trial court and awarded the expenses to the defendant based on current Washington statute. Concern has been raised that this sort of situation was not what the Legislature intended the self-defense reimbursement statute to cover.

**SUMMARY:**

No award of expenses may be made if the defendant was engaged in criminal conduct substantially related to the events giving rise to the charges filed, even if the defendant was found to have acted in self-defense.

**SUMMARY OF PROPOSED COMMITTEE AMENDMENT:**

An award of expenses is made discretionary if the trier of fact finds the defendant acted in self-defense, but was involved in criminal conduct substantially related to the events giving rise to the crime with which the defendant is charged. The judge shall consider the seriousness level of the initial criminal conduct in determining whether to make an award.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Drug dealers who shoot other drug dealers should not have their legal expenses paid for by the state. Defendants involved in criminal conduct that leads to the need to self-defend should be treated the same as other types of defendants. The bill appropriately limits the kinds of cases in which the state must pay these expenses.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Rep. Wang (pro); Judge Waldo Stone, Pierce County Superior Court (pro); John Ladenburg, Washington Association of Prosecuting Attorneys (pro)