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HOUSE BILL 2887

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Sommers and Lantz

Read first time 02/01/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to restricting public reimbursement of criminal  
2 defendants; 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 1995 c 44 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 violent crime as defined in RCW 9.94A.030.

12 (2)(a) When a person charged with a crime listed in subsection (1)  
13 of this section is found not guilty by reason of self-defense and the  
14 prosecution is conducted by the state attorney general under RCW  
15 43.10.232, the state of Washington through the sundry claims process  
16 under RCW 4.92.040 shall reimburse the defendant for all reasonable  
17 costs, including loss of time, legal fees incurred, and other expenses  
18 involved in his or her defense. ((This)) If the prosecution is  
19 conducted by a county or municipal prosecuting attorney, reimbursement

1 may be made by the county or municipality if authorized by the county  
2 or municipal legislative authority, respectively.

3 (b) Reimbursement under this subsection is not an independent cause  
4 of action. To award these reasonable costs the trier of fact must find  
5 that the defendant's claim of self-defense was sustained by a  
6 preponderance of the evidence. If the trier of fact makes a  
7 determination of self-defense, the judge shall determine the amount of  
8 the award.

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

16 ~~((Nothing in this section precludes the legislature from using the~~  
17 ~~sundry claims process to grant an award where none was granted under~~  
18 ~~this section or to grant a higher award than one granted under this~~  
19 ~~section.~~

20 ~~(+4))~~ (d) Whenever the issue of self-defense under this section is  
21 decided by a judge, the judge shall consider the same questions as must  
22 be answered in the special verdict under (e) of this subsection ~~((+4)~~  
23 ~~{(5)} of this section~~)).

24 ~~((+5))~~ (e) Whenever the issue of self-defense under this section  
25 has been submitted to a jury, and the jury has found the defendant not  
26 guilty, the court shall instruct the jury to return a special verdict  
27 in substantially the following form:

- |   |           |
|---|-----------|
|   | answer    |
|   | yes or no |
| 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?              | . . . . . |

- 1 d. Coming to the aid of another who was in imminent
- 2 danger of a heinous crime? . . . . .
- 3 e. Coming to the aid of another who was the victim
- 4 of a heinous crime? . . . . .
- 5 f. Engaged in criminal conduct substantially
- 6 related to the events giving rise to the
- 7 crime with which the defendant is charged? . . . . .

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