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HOUSE BILL 1256

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Carrell, Cairnes, Roach, Kristiansen, Hinkle, Newhouse, McMahan, Talcott, Cox, Schindler and Benson

Read first time 01/22/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to defenses in civil actions; adding a new section  
2 to chapter 4.24 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that a person who is  
5 injured as a result of engaging in criminal activity should not be  
6 entitled to recover damages for that injury if the criminal activity  
7 was an actual cause of the injury and the circumstances of the injury  
8 warrant preclusion of liability as a matter of social policy and common  
9 sense. The law provides a complete defense against a personal injury  
10 action if the injured person was engaged in a felony at the time of the  
11 injury. The legislature intends to extend this policy to situations  
12 involving gross misdemeanor and misdemeanor crimes if the person is  
13 found to have committed the offense.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW  
15 to read as follows:

16 It is a complete defense to any action for damages for personal  
17 injury or wrongful death that the person injured or killed was engaged  
18 in the commission of a gross misdemeanor or a misdemeanor at the time

1 of the occurrence causing the injury or death and the gross misdemeanor  
2 or misdemeanor was a proximate cause of the injury or death. However,  
3 the defense provided in this section applies only if the injury or  
4 death was not caused by an act of the person claiming the defense and,  
5 in the case of a personal injury action, the person injured has been  
6 convicted of the offense that was a proximate cause of the injury, or  
7 in the case of a wrongful death action, the court finds by clear,  
8 cogent, and convincing evidence that the person killed committed the  
9 offense that was a proximate cause of the death. Nothing in this  
10 section shall affect a right of action under 42 U.S.C. Sec. 1983, nor  
11 shall anything in this section affect a right of action under the  
12 common law doctrine of attractive nuisance when the only offense  
13 committed or intended to be committed is trespass.

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