

SENATE BILL NO. 127

INTRODUCED BY T. MANZELLA, V. RICCI, E. ALBUS, K. LOVE, E. BYRNE, T. MILLETT, E. TILLEMANN, D.  
ZOLNIKOV, D. EMRICH, J. FULLER, C. HINKLE, R. MARSHALL, G. LAMMERS, D. LOGE, M. REGIER, S.  
VINTON, C. GLIMM, B. LER, J. SCHILLINGER, G. OBLANDER, L. DEMING, M. NOLAND, J. TREBAS, S.  
MANESS, T. TEZAK, J. HINKLE, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO SELF-DEFENSE; PROVIDING  
THAT NO PERSON MAY BE PLACED IN LEGAL JEOPARDY WHEN DEFENDING AGAINST A SERIOUS  
CRIME; AND PROVIDING THAT WHEN A DEFENDANT SUCCESSFULLY ARGUES THE DEFENSE OF  
JUSTIFIABLE USE OF FORCE, THE DEFENDANT IS ENTITLED TO OUT-OF-POCKET COSTS AND  
ATTORNEY FEES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Affirmative defense of justifiable use of force -- reimbursement.** (1)

A PERSON IN THE STATE MAY NOT BE PLACED IN LEGAL JEOPARDY OF ANY KIND FOR PROTECTING BY ANY REASONABLE  
MEANS NECESSARY THE PERSON'S SELF, FAMILY, OR REAL OR PERSONAL PROPERTY, OR FOR COMING TO THE AID OF  
ANOTHER WHO IS IN IMMINENT DANGER OF OR THE VICTIM OF ASSAULT, ROBBERY, KIDNAPPING, ARSON, BURGLARY,  
SEXUAL INTERCOURSE WITHOUT CONSENT, DELIBERATE HOMICIDE, OR ANY FORCIBLE FELONY AS DEFINED IN 45-2-101,  
OR THE ATTEMPT OF ANY OF THESE CRIMES.

(2) (a) When a defendant successfully raises and argues the affirmative defense of justifiable use  
of force in the defense of a charge of a forcible felony in which the defendant is not convicted for any reason,  
the defendant is entitled to reimbursement of the defendant's out-of-pocket costs, attorney fees, and costs for  
the specific forcible felony that did not result in a conviction.

(b) Reimbursement under subsection ~~(1)(a)~~ (2)(A) must be paid out of the budget used by the  
prosecutor or the prosecutor's employer to pay for the trial of the charge that did not result in a conviction.

~~(2)(3)~~ If the defendant is convicted of other crimes for which the affirmative defense of justifiable use  
of force was not raised or argued or was unsuccessful and resulted in a conviction, the defendant is responsible

1 for the out-of-pocket costs, attorney fees, and costs generated in defending those charges.

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3 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
4 integral part of Title 45, chapter 3, part 1, and the provisions of Title 45, chapter 3, part 1, apply to [section 1].

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