

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; 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) 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, the attorney general shall, within 15 days of the defendant raising the affirmative defense, decide if the prosecution of the applicable forcible felony shall proceed or not proceed and direct the prosecution as provided in 2-15-501(5). in which If 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) 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~~ state general fund.

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

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

AMENDED