

HOUSE BILL NO. HB0014

Protecting self-defense-reimbursement and amendments.

Sponsored by: Representative(s) Brown, G, Allemand, Banks, Brady, Campbell, K, Guggenmos, Haroldson, Heiner, Hoeft, Knapp, Locke, Lucas, Ottman, Riggins, Schmid, Smith, S, Strock, Styvar, Wasserburger, Webb, Webber, Wharff and Winter and Senator(s) French, Ide, Laursen, D and Pearson

A BILL

for

1 AN ACT relating to crimes and offenses; clarifying the use
2 of self-defense to prevent injury or loss to other persons
3 and property; requiring the expungement of records for
4 cases dismissed for use of self-defense; authorizing
5 reimbursement of costs incurred in defending a criminal
6 prosecution after successfully asserting self-defense;
7 providing definitions; making conforming amendments;
8 specifying applicability; and providing for an effective
9 date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

1 **Section 1.** W.S. 6-2-604 and 6-2-605 are created to
2 read:

3
4 **6-2-604. Use of force in self-defense; reimbursement**
5 **of costs and fees.**

6
7 (a) If a person who is subject to criminal
8 prosecution is found not guilty, has had the charges
9 dismissed or is otherwise released from custody or further
10 prosecution because the person reasonably used defensive
11 force in accordance with W.S. 6-2-602, the county where the
12 person was charged or subject to criminal prosecution shall
13 reimburse the person for all reasonable costs, including
14 loss of time, bail costs, attorney fees and other costs and
15 expenses involved in the person's defense, including the
16 costs of seeking or receiving an expungement under W.S.
17 6-2-605.

18
19 (b) Reimbursement for a person subject to criminal
20 prosecution who is found not guilty because the person
21 reasonably used defensive force under W.S. 6-2-602 shall
22 not be an independent cause of action. If the trier of fact
23 in the underlying criminal action determines that a person

1 is eligible for reimbursement under this section, the court
2 shall determine the amount of the reimbursement award.

3
4 (c) A person subject to criminal prosecution who has
5 had the charges dismissed or is otherwise released from
6 custody or further prosecution, because the person
7 reasonably used defensive force in accordance with W.S.
8 6-2-602, may file a petition for reimbursement in the court
9 in the county in which the person was subject to criminal
10 prosecution. Notwithstanding any other provision of law,
11 there shall be no filing fee for a petition filed under
12 this subsection. If the court determines that a person is
13 eligible for reimbursement under this section, the court
14 shall then determine the amount of the reimbursement award.

15
16 (d) Nothing in this section shall prohibit an action
17 under the Wyoming Governmental Claims Act to seek a
18 reimbursement award where none was granted or to seek a
19 higher award than the one (1) award granted under this
20 section.

21
22 **6-2-605. Use of force in self-defense; expungement.**

1 (a) A person subject to criminal prosecution who is
2 found not guilty, has had the charges dismissed or is
3 otherwise released from custody or further prosecution
4 because the person reasonably used defensive force in
5 accordance with W.S. 6-2-602 may file a petition for
6 expungement in the court in the county where the person was
7 subject to criminal prosecution. A person subject to
8 criminal prosecution who is found not guilty because the
9 person reasonably used defensive force under W.S. 6-2-602
10 shall be advised by the court upon acquittal that the
11 person has the right to immediately file a petition for
12 expungement under this section.

13

14 (b) Any petition for expungement filed under
15 subsection (a) of this section shall:

16

17 (i) Identify the person, the case number and
18 court in which any criminal prosecution resulting in
19 acquittal or dismissal occurred, the date and place of
20 arrest and the law enforcement agency that arrested the
21 person;

22

1 (ii) Include a short, plain statement made under
2 penalty of perjury of the facts that demonstrate that the
3 person is entitled to relief under this section;

4

5 (iii) Include a request for an order to expunge
6 all records taken or created in connection with the
7 criminal prosecution of the person.

8

9 (c) If a petition filed under this section concerns a
10 criminal prosecution that resulted in a dismissal, the
11 person shall serve a copy of the petition on the district
12 attorney who prosecuted the criminal prosecution. If the
13 petition concerns an arrest that did not result in a
14 prosecution, the person shall serve a copy of the petition
15 on the law enforcement agency that made the arrest. No
16 order granting expungement under this section shall be made
17 less than twenty (20) days after service is made under this
18 subsection.

19

20 (d) The district attorney or law enforcement agency
21 may file an objection to the petition not later than twenty
22 (20) days after receipt of service under subsection (c) of
23 this section. If an objection is filed, the court shall set

1 the matter for a hearing. If no objection is filed, the
2 court may summarily enter an order of expungement if the
3 court finds that the person is otherwise eligible for
4 expungement under this section.

5
6 (e) Notwithstanding any other provision of law, there
7 shall be no filing fee required for any petition for
8 expungement filed under this section.

9
10 (f) If a petition filed under this section concerns a
11 criminal prosecution that resulted in a finding of not
12 guilty because the person reasonably used defensive force
13 under W.S. 6-2-602, the court shall summarily enter an
14 order of expungement if the court finds that the person is
15 eligible for expungement under this section.

16
17 (g) If the court enters an order of expungement under
18 this section, the person shall be deemed to have never been
19 arrested, charged or prosecuted with respect to the matters
20 and charges that are subject to the order of expungement,
21 and the person may so swear under oath.

22

1 **Section 2.** W.S. 6-2-601 and 6-2-602(a) and by
2 creating new subsections (h) and (j) are amended to read:

3
4 **6-2-601. Applicability of article; definitions.**

5
6 (a) The common law shall govern in all cases not
7 governed by this article.

8
9 (b) As used in this article:

10
11 (i) "Criminal prosecution" includes the arrest,
12 charging or prosecution of a person for a criminal offense;

13
14 (ii) "Expungement" or "expunge" means to
15 permanently destroy, delete or erase all records, as
16 appropriate for the record's physical or electronic form,
17 so that the record is permanently irretrievable;

18
19 (iii) "Record" means any notation of the arrest,
20 charge, prosecution or disposition maintained in the state
21 central repository at the division of criminal
22 investigation, or by any state agency, entity or political
23 subdivision, whether in paper or electronic format,

1 including investigatory files of any local, state or
2 federal criminal justice agency.

3
4 **6-2-602. Use of force in self-defense; no duty to**
5 **retreat; decision of questions.**

6
7 (a) The use of defensive force, whether actual or
8 threatened, is reasonable when it is the defensive force
9 that a reasonable person in like circumstances would judge
10 necessary to prevent an injury or loss to oneself, another
11 person or to the person's real or personal property, and no
12 more, including deadly force if necessary to prevent
13 imminent death or serious bodily injury to the person
14 employing the deadly force or to another person. As used in
15 this subsection, "necessary to prevent" includes a
16 necessity that arises from an honest belief that the danger
17 exists whether the danger is real or apparent.

18
19 (h) When the issue of the reasonable use of defensive
20 force in self-defense is decided by a judge, the judge
21 shall consider the same questions as must be answered under
22 subsection (j) of this section.

1 (j) When the issue of the reasonable use of defensive
2 force in self-defense is submitted to a jury and the jury
3 has found the defendant not guilty, the court shall
4 instruct the jury to return a special verdict using the
5 following form:

6
7 1. Was the finding of not guilty based on the reasonable
8 use of defensive force in self-defense? Yes ___ No ___

9
10 2. If your answer to question 1 is "no," do not answer any
11 remaining questions.

12
13 3. If your answer to question 1 is "yes," continue
14 answering the following questions. Was the defendant:

15
16 a. Protecting himself or herself? Yes ___ No ___

17
18 b. Protecting his or her family? Yes ___ No ___

19
20 c. Protecting his or her real or personal property?

21 Yes ___ No ___

1 d. Coming to the aid of another who was in imminent
2 danger of death or serious bodily injury? Yes ___ No ___

3

4 e. Coming to the aid of another who was the victim of
5 a violent felony? Yes No

6

7 **Section 3.** This act is effective immediately upon
8 completion of all acts necessary for a bill to become law
9 as provided by Article 4, Section 8 of the Wyoming
10 Constitution.

11

12 (END)