

## HOUSE BILL NO. HB0287

Protecting self-defense-reimbursement and amendments.

Sponsored by: Representative(s) Brown, G, Allemand, Angelos, Bear, Brady, Campbell, K, Eklund, Guggenmos, Haroldson, Hoeft, Johnson, Knapp, Lien, Locke, Lucas, McCann, Schmid, Singh, Smith, S, Strock, Styvar, Tarver, Wasserburger, Webb, Wharff and Winter and Senator(s) Boner, Dockstader, Hicks, McKeown 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. 6-2-603 and 6-2-604 are created to  
2 read:

3

4           **6-2-603. Use of force in self-defense; reimbursement**  
5 **of costs and fees.**

6

7           (a) When 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 6-2-604.

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 is not  
22 an independent cause of action. If the trier of fact  
23 determines that a person is eligible for reimbursement

1 under this section, the court shall determine the amount of  
2 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 preclude using the  
17 Wyoming Governmental Claims Act to grant a reimbursement  
18 award where none was granted or to grant a higher award  
19 than the one (1) award granted under this section.

20

21 **6-2-604. Use of force in self-defense; expungement.**

22

1           (a) When a person who is subject to criminal  
2 prosecution is found not guilty, has had the charges  
3 dismissed or is otherwise released from custody or further  
4 prosecution because the person reasonably used defensive  
5 force in accordance with W.S. 6-2-602, the court shall  
6 order that all records taken or created in connection with  
7 the criminal prosecution be expunged. The court shall send  
8 notice of the expungement to the division of criminal  
9 investigation and any other state agency, entity or  
10 political subdivision that the court has reason to believe  
11 may have a record pertaining to the criminal prosecution  
12 that is subject to the order of expungement under this  
13 subsection.

14

15           (b) An expungement for a person subject to criminal  
16 prosecution who is found not guilty because the person  
17 reasonably used defensive force under W.S. 6-2-602 shall  
18 not constitute an independent cause of action but shall be  
19 ordered by the court overseeing the criminal prosecution.

20

21           (c) A person subject to criminal prosecution who has  
22 had the charges dismissed or is otherwise released from  
23 custody or further prosecution because the person

1 reasonably used defensive force in accordance with W.S.  
2 6-2-602 may file a petition for expungement in the court in  
3 the county where the person was subject to criminal  
4 prosecution.

5

6 (d) Any petition for expungement under this section  
7 shall be filed not later than one hundred eighty (180) days  
8 after the date of arrest or the date the charges for which  
9 expungement is sought are dismissed, whichever is later.

10

11 (e) Any petition for expungement filed under  
12 subsection (c) of this section shall:

13

14 (i) Identify the person, the case number and  
15 court in which any criminal prosecution resulting in  
16 dismissal occurred, the date and place of arrest and the  
17 law enforcement agency that arrested the person;

18

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

22

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

4

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

15

16           (g) The district attorney or law enforcement agency  
17 may file an objection to the petition not later than twenty  
18 (20) days after receipt of service under subsection (f) of  
19 this section. If an objection is filed, the court shall set  
20 the matter for a hearing. If no objection is filed, the  
21 court may summarily enter an order of expungement if the  
22 court finds that the person is otherwise eligible for  
23 expungement under this section.

1

2 (h) Notwithstanding any other provision of law, there  
3 shall be no filing fee required for any petition for  
4 expungement filed under this section.

5

6 (j) If the court enters an order of expungement under  
7 this section, the person shall be deemed to have never been  
8 arrested, charged or prosecuted with respect to the matters  
9 and charges that are subject to the order of expungement,  
10 and the person may so swear under oath.

11

12 (k) The state may appeal any order of expungement  
13 issued under this section.

14

15 (m) The state and any of its political subdivisions  
16 shall not be subject to any civil liability as a result of  
17 any criminal prosecution that is expunged under this  
18 section.

19

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

22

23 **6-2-601. Applicability of article; definitions.**

1

2       (a) The common law shall govern in all cases not  
3 governed by this article.

4

5       (b) \_As used in this article:

6

7           (i) "Criminal prosecution" includes the arrest,  
8 charging or prosecution of a person for a criminal offense;

9

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

14

15           (iii) "Record" means any notation of the arrest,  
16 charge, prosecution or disposition maintained in the state  
17 central repository at the division of criminal  
18 investigation, or by any state agency, entity or political  
19 subdivision, whether in paper or electronic format,  
20 including investigatory files of any local, state or  
21 federal criminal justice agency.

22



1           **6-2-602. Use of force in self-defense; no duty to**  
2 **retreat; decision of questions.**

3

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

15

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

20

21           (j) When the issue of the reasonable use of force in  
22 self-defense is submitted to a jury and the jury has found

1 the defendant not guilty, the court shall instruct the jury  
2 to return a special verdict using the following form:

3  
4 1. Was the finding of not guilty based on the reasonable  
5 use of force in self-defense? Yes == No ==

6  
7 2. If your answer to question 1 is "no," do not answer any  
8 remaining questions.

9  
10 3. If your answer to question 1 is "yes," continue  
11 answering the following questions. Was the defendant:

12  
13 a. Protecting himself or herself? Yes == No ==

14  
15 b. Protecting his or her family? Yes == No ==

16  
17 c. Protecting his or her real or personal property?  
18 Yes == No ==

19  
20 d. Coming to the aid of another who was in imminent  
21 danger of death or serious bodily injury? Yes == No

22 ==

23

