

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 674

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SELF-DEFENSE; AMENDING CHAPTER 2, TITLE 19, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 19-202B, IDAHO CODE, TO DEFINE TERMS, TO PRO-
3 VIDE FOR REIMBURSEMENT FOR JUSTIFIABLE HOMICIDE AND DEFENSE OF SELF,
4 OTHERS, AND CERTAIN PLACES, AND TO PROVIDE A VERDICT FORM; AND DECLARING
5 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 2, Title 19, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 19-202B, Idaho Code, and to read as follows:

11 19-202B. IMMUNITY AND REIMBURSEMENT FOR JUSTIFIABLE HOMICIDE AND DE-
12 FENSE OF SELF, OTHERS, AND CERTAIN PLACES. (1) As used in this section:

13 (a) "Criminal prosecution" includes arresting, detaining in custody,
14 and charging or prosecuting the defendant.

15 (b) "Law enforcement officer" means any court personnel, sheriff,
16 constable, peace officer, state police officer, correctional officer,
17 probation or parole official, prosecuting attorney, city attorney, or
18 attorney general, or their employees or agents, or any other person
19 charged with the duty of enforcement of the criminal traffic or penal
20 laws of this state, or any other law enforcement personnel or peace of-
21 ficer as defined in section 19-5101, Idaho Code.

22 (2) A person who uses force as justified in section 18-4009, Idaho Code,
23 or as otherwise permitted in sections 19-201 through 19-205, Idaho Code, is
24 presumed to be exercising the fundamental right of self-defense and shall
25 not be subjected to criminal prosecution for the use of such force except
26 when the person knew or reasonably should have known that the person against
27 whom the force was used was a law enforcement officer acting in the capacity
28 of the officer's official duties. A law enforcement officer may use standard
29 procedures for investigating the use of force, but the officer may not arrest
30 the person for using force unless the officer determines that there is prob-
31 able cause that the force used was unlawful or a court of competent jurisdic-
32 tion has issued an arrest warrant based on the officer's investigation. In
33 addition, when a subject of investigation invokes the right to remain silent
34 or have an attorney present for questions, that fact shall not be evidence of
35 probable cause that the force used was unlawful.

36 (3) When a person charged with a crime is found not guilty by reason of
37 self-defense, the defendant shall be conclusively presumed to have exer-
38 cised the fundamental right of self-defense, and the county or prosecuting
39 state agency where the person was charged with the crime shall reimburse
40 the defendant for all reasonable costs, including loss of wages, salary,
41 profits, and business opportunities, legal fees incurred, cost of any bonds
42 posted, expert witness fees, and any other expenses involved in his defense.

1 This reimbursement shall not be an independent cause of action. To award
 2 these reasonable costs, the trier of fact must find that the defendant's
 3 claim of self-defense was sustained by a preponderance of the evidence. If
 4 the trier of fact makes a determination of self-defense, or in the case of a
 5 directed verdict, the judge shall determine the amount of the award based on
 6 current case law defining "reasonable fees."

7 (4) Nothing in this section shall preclude the county or prosecuting
 8 state agency from seeking indemnification from any third party or state
 9 agency under any theory allowed by law.

10 (5) Nothing in this section may be construed to limit or impair any de-
 11 fense to civil or criminal liability otherwise available.

12 (6) Whenever the issue of self-defense under this section is decided by
 13 a judge, the judge shall consider the same questions as must be answered in
 14 the special verdict under subsection (7) of this section.

15 (7) Whenever the issue of self-defense under this section has been sub-
 16 mitted to a jury, and the jury has found the defendant not guilty, the court
 17 shall instruct the jury to return a special verdict in substantially the fol-
 18 lowing form:

19 Answer
 20 "Yes"
 21 or "No"

- 22 1. Was the verdict of not guilty based on the fact that the
 23 defendant acted in self-defense?
- 24 2. If your answer to question 1 is No - STOP. Do not answer the
 25 remaining questions.
- 26 3. If your answer to question 1 is Yes, was the defendant
 27 (answer all that apply):
- 28 a. Protecting himself or herself?
- 29 b. Protecting his or her family?
- 30 c. Protecting his or her property when the need for
 31 self-defense arose?
- 32 d. Coming to the aid of another who was in imminent danger
 33 of a heinous crime?
- 34 e. Coming to the aid of another who was the victim of a
 35 heinous crime?
- 36 4. Did you find the defendant guilty of any other crimes?
 37 If your answer is No - STOP. Do not answer the remaining
 38 question.
- 39 5. If your answer to question 4 is Yes, was that crime
 40 substantially related to the defendant's act of
 41 self-defense such that the defendant's act of self-defense
 42 would not have been necessary but for related crime?

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2022.