

which are consistent with the provisions of sections 1 through 4 of this act; and (2) establishing procedures to ensure that the program does not significantly increase the cost of providing annual leave.

**NEW SECTION.** Sec. 7. School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on the effective date of this act so that donated leave may be used in lieu of leave without pay taken after the effective date of this act.

**NEW SECTION.** Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 7, 1989.

Passed the House April 6, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.

## CHAPTER 94

[Substitute Senate Bill No. 5066]

### SELF DEFENSE—SPECIAL VERDICT AND INDEMNIFICATION

AN ACT Relating to defense of person or property; amending RCW 9.01.200; and recodifying RCW 9.01.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 206, Laws of 1977 ex. sess. and RCW 9.01-.200 are each amended to read as follows:

(1) No person in the state shall be placed in legal jeopardy of any kind whatsoever for protecting by any reasonable means necessary, himself or herself, his or her family, or his or her real or personal property, or for coming to the aid of another who is in imminent danger of or the victim of ((aggravated)) assault, ((armed)) robbery, ((holdup)) kidnapping, arson, burglary, rape, murder, or any other heinous crime.

(2) When a substantial question of self defense in such a case shall exist which needs legal investigation or court action for the full determination of the facts, and the defendant's actions are subsequently found justified under the intent of this section, the state of Washington shall indemnify or reimburse such defendant for all loss of time, legal fees, or other expenses involved in his or her defense. This indemnification or reimbursement is an award of reasonable costs which include loss of time, legal fees, or other

expenses and is not an independent cause of action. The determination of an award shall be by the judge or jury at the discretion of the judge in the criminal proceeding. To award these reasonable costs the trier of fact must find that the defendant's claim of self-defense was sustained by a preponderance of the evidence: PROVIDED, HOWEVER, That nothing shall preclude the legislature from granting a higher award through the sundry claims process.

(3) Whenever the issue of self defense under this section is decided by a judge or whenever a judge exercises the discretion authorized under subsection (2) of this section in determining an award, the judge shall consider the same questions as must be answered in the special verdict under subsection (4) of this section.

(4) Whenever the issue of self defense under this section has been submitted to a jury, and the jury has found the defendant not guilty, and the judge has submitted an award determination to the jury, the court shall instruct the jury to return a special verdict in substantially the following form:

- |   | <u>answer</u>    |
|---|------------------|
|   | <u>yes or no</u> |
| <u>1. Was the finding of not guilty based upon self defense?</u>                                | .....            |
| <u>2. If your answer to question 1 is no, do not answer the remaining question.</u>             |                  |
| <u>3. If your answer to question 1 is yes,</u><br><u>was the defendant:</u>                     |                  |
| <u>a. Protecting himself or herself?</u>  | .....            |
| <u>b. Protecting his or her family?</u>   | .....            |
| <u>c. Protecting his or her property?</u>   | .....            |
| <u>d. Coming to the aid of another who</u><br><u>was in imminent danger of a heinous crime?</u> | .....            |
| <u>e. Coming to the aid of another who</u><br><u>was the victim of a heinous crime?</u>         | .....            |

NEW SECTION. Sec. 2. RCW 9.01.200 is hereby decodified and re-codified as a new section in chapter 9A.16 RCW.

Passed the Senate April 11, 1989.

Passed the House April 5, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.