

17102920D

**HOUSE BILL NO. 1989**

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend and reenact § 17.1-629 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, relating to excusable or justifiable self-defense; costs and attorney fees.*

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Patrons—Webert and Cole

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Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-629 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8 as follows:**

**§ 8.01-44.8. Attorney fees for excusable or justifiable self-defense.**

*In any civil action, a party who pleads excusable or justifiable self-defense as an affirmative defense and substantially prevails in that defense shall be awarded reasonable costs, including costs and reasonable fees for expert witnesses, loss of time, and attorney fees, from the party bringing the claim of damages against the prevailing party, unless the court finds that special circumstances make such award unjust. Notwithstanding a finding that a party's actions were justified by self-defense, if the party claiming self-defense was engaged in criminal conduct substantially related to the events giving rise to the civil action, the court may deny or reduce the amount of the award.*

**§ 17.1-629. No judgment for costs against Commonwealth; exception.**

A. In no case, civil or criminal, whether in a court of record or a court not of record, except when otherwise specially provided, shall there be a judgment for costs against the Commonwealth.

B. In any criminal action, a defendant who pleads excusable or justifiable self-defense as an affirmative defense and substantially prevails in that defense shall be awarded reasonable costs, including costs and reasonable fees for expert witnesses, loss of time, and attorney fees, from the Commonwealth, unless the court finds that special circumstances make such award unjust. Notwithstanding a finding that a defendant's actions were justified by self-defense, if the defendant was engaged in criminal conduct substantially related to the events giving rise to the prosecution, the court may deny or reduce the amount of the award.

Costs and attorney fees awarded under this subsection shall be paid out of the funds appropriated to the attorney for the Commonwealth or Attorney General over which the defendant prevails. This subsection shall not apply to any case in which the defendant is appointed counsel whose fees are paid by the Commonwealth.

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