

CHAPTER 132

COURTS

HOUSE BILL 93-1061

BY REPRESENTATIVES Jerke, Allen, Armstrong, Berry, Coffman, Duke, Epps, Faatz, Fleming, Friednash, R. Hernandez, June, Kaufman, Kreutz, Lawrence, Lyle, Morrison, Nichol, Owen, Pierson, Reeser, Shoemaker, and Tanner;
BY SENATORS Owens, Bird, Blickensderfer, Meiklejohn, Mutzebaugh, Norton, R. Powers, Roberts, Schroeder, and Wham.

AN ACT

CONCERNING A LIMITATION ON THE ABILITY TO FILE CIVIL ACTIONS FOR INJURIES THAT OCCUR IN CONNECTION WITH THE COMMISSION OF A CRIME.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-80-119, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-80-119. Injury sustained while in commission of a felonious act or in flight from the commission of a felonious act. (1) ~~On or after July 1, 1987,~~ No person, his estate, or his personal representative shall have a right to recover damages ~~for a personal injury~~ sustained during the commission of or during immediate flight from an act which is defined by any law of this state or the United States to be a felony, if the conditions stipulated in this section apply.

(2) (a) The court shall dismiss the action and award attorney fees and costs to the person against whom the action was brought if the ~~injured~~ person BRINGING THE ACTION, ON WHOSE BEHALF AN ACTION HAS BEEN BROUGHT, OR IN THE CASE OF A WRONGFUL DEATH ACTION, THE DECEDENT, has been convicted of the felony or has been adjudicated a delinquent as a result of the commission of the act, ~~and~~ UNLESS THE DAMAGE WAS CAUSED BY THE WILLFUL AND DELIBERATE ACT OF ANOTHER PERSON; EXCEPT THAT SUCH EXCEPTION SHALL NOT APPLY if the person who caused the injuries acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or to others, using a degree of force which he reasonably

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

believed necessary for that purpose; ~~and~~ OR

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force which he reasonably believed necessary for that purpose; OR

(III) AS A PEACE OFFICER, AS SUCH PERSON IS DEFINED IN SECTION 18-1-901 (3) (I) (I), (3) (I) (II), AND (3) (I) (IV.5), C.R.S., ACTING WITHIN THE SCOPE OF THE OFFICER'S EMPLOYMENT AND ACTING PURSUANT TO SECTION 18-1-707, C.R.S.

(b) If the ~~injured~~ person BRINGING THE ACTION, ON WHOSE BEHALF AN ACTION HAS BEEN BROUGHT, OR IN THE CASE OF A WRONGFUL DEATH ACTION, THE DECEDENT, is not convicted of a felony or adjudicated a delinquent as a result of the commission of the act, the court shall submit to the jury the issue of whether or not, by a preponderance of the evidence, the ~~injured~~ person committed an act which is defined by any law of this state or the United States to be a felony. The court shall dismiss the action and award attorney fees and costs to the person against whom the action was brought if the court or jury determines that the ~~injured person~~ DAMAGE WAS sustained ~~the injury~~ during the commission of or during immediate flight from an act which is defined by any law of this state or the United States to be a felony, ~~and that~~ UNLESS THE DAMAGE WAS CAUSED BY THE WILLFUL AND DELIBERATE ACT OF ANOTHER PERSON; EXCEPT THAT SUCH EXCEPTION SHALL NOT APPLY IF the person who caused the injury acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or to others, using a degree of force which he reasonably believed necessary for that purpose; ~~and~~ OR

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force which he reasonably believed necessary for that purpose; OR

(III) AS A PEACE OFFICER, AS SUCH PERSON IS DEFINED IN SECTION 18-1-901 (3) (I) (I), (3) (I) (II), AND (3) (I) (IV.5), C.R.S., ACTING WITHIN THE SCOPE OF THE OFFICER'S EMPLOYMENT AND ACTING PURSUANT TO SECTION 18-1-707, C.R.S.

SECTION 2. 13-21-504 (4), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-21-504. Proximate cause. (4) IN ADDITION TO ANY LIMITATION OF AN ACTION SET FORTH IN SECTION 13-80-119, in a product liability action brought by the criminal, it shall be an absolute defense that the injury, damage, or death immediately resulted from the use of the firearm or ammunition during the commission of the criminal act which is a felony or a class 1 or class 2 misdemeanor.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1993, and shall apply to any action filed on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1993