

## CHAPTER 138

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**COURTS**

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**HOUSE BILL 98-1376**

BY REPRESENTATIVES Agler, Adkins, Dean, Salaz, Young, Allen, Epps, Lawrence, McElhany, McPherson, Nichol, Spradley, Sullivant, Tool, and Tucker;  
also SENATORS Dennis, Arnold, Congrove, and Tebedo.

**AN ACT**

CONCERNING THE PROTECTION OF CRIME VICTIMS FROM CIVIL ACTIONS.

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

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

**13-80-119. Damages sustained during commission of a felonious act or in flight from the commission of a felonious act.** (1) No person, his OR HER estate, or his OR HER personal representative shall have a right to recover damages sustained during the commission of or during immediate flight from an act ~~which~~ THAT 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 FOR DAMAGES and award attorney fees and costs to the person against whom the action was brought if the 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, 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 HERSELF or to others, using a degree of force ~~which~~ THAT he OR SHE reasonably believed necessary for that purpose; or

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

(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~~ THAT he OR SHE 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.

(a.5) THE COURT SHALL DISMISS THE ACTION FOR DAMAGES AND AWARD ATTORNEY FEES AND COSTS TO THE PERSON AGAINST WHOM THE ACTION WAS BROUGHT IF THE PERSON AGAINST WHOM THE ACTION WAS BROUGHT IS FOUND NOT GUILTY OF CRIMINAL CHARGES FOR CAUSING THE INJURIES SUSTAINED BY THE PERSON WHO COMMITTED THE FELONY OR ACT THAT IS DEFINED AS A FELONY, OR IN THE CASE OF A WRONGFUL DEATH ACTION FOR CAUSING THE DECEDENT'S DEATH, AS A RESULT OF THE COMMISSION OF THE ACT, 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 HERSELF OR TO OTHERS, USING A DEGREE OF FORCE THAT HE OR SHE REASONABLY BELIEVED NECESSARY FOR THAT PURPOSE; 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 THAT HE OR SHE 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.

(a.6) FOR PURPOSES OF PARAGRAPH (a.5) OF THIS SUBSECTION (2), A FINDING OF NOT GUILTY OF CRIMINAL CHARGES DOES NOT INCLUDE A FINDING OF NOT GUILTY BY REASON OF INSANITY OR A FINDING OF NOT GUILTY BY REASON OF IMPAIRED MENTAL CONDITION.

(b) IF PARAGRAPH (a.5) OF THIS SUBSECTION (2) DOES NOT APPLY AND if the person bringing the action FOR DAMAGES OR 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 OR IN THE CASE OF A WRONGFUL DEATH ACTION, the court shall submit to the jury HEARING THE DAMAGES CLAIM the issue of whether or not, by a preponderance of the evidence, the person committed an act ~~which~~ THAT 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 damage was sustained during the commission of or during immediate flight from an act ~~which~~ THAT is defined by any law of this state or the United States to be a felony, 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 HERSELF or to others, using a degree of force ~~which~~ THAT he OR SHE reasonably believed necessary for that purpose; 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~~ THAT he OR SHE reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is defined in section 18-1-901 (3) (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. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 21, 1998