

CHAPTER 83

CRIMINAL LAW & PROCEDURE

HOUSE BILL 03-1148

BY REPRESENTATIVE(S) Cloer, Schultheis, Cadman, Crane, Fairbank, Hall, Hefley, King, Lee, Lundberg, McFadyen, Mitchell, Stengel, White, Fritz, May M., Miller, and Stafford;
also SENATOR(S) Hillman, and Chlouber.

AN ACT**CONCERNING RESTORATION OF SELF-DEFENSE AS A DEFENSE IN CRIMINAL CASES.**

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

SECTION 1. 18-1-704, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-1-704. Use of physical force in defense of a person. (4) IN A CASE IN WHICH THE DEFENDANT IS NOT ENTITLED TO A JURY INSTRUCTION REGARDING SELF-DEFENSE AS AN AFFIRMATIVE DEFENSE, THE COURT SHALL ALLOW THE DEFENDANT TO PRESENT EVIDENCE, WHEN RELEVANT, THAT HE OR SHE WAS ACTING IN SELF-DEFENSE. IF THE DEFENDANT PRESENTS EVIDENCE OF SELF-DEFENSE, THE COURT SHALL INSTRUCT THE JURY WITH A SELF-DEFENSE LAW INSTRUCTION. THE COURT SHALL INSTRUCT THE JURY THAT IT MAY CONSIDER THE EVIDENCE OF SELF-DEFENSE IN DETERMINING WHETHER THE DEFENDANT ACTED RECKLESSLY, WITH EXTREME INDIFFERENCE, OR IN A CRIMINALLY NEGLIGENT MANNER. HOWEVER, THE SELF-DEFENSE LAW INSTRUCTION SHALL NOT BE AN AFFIRMATIVE DEFENSE INSTRUCTION AND THE PROSECUTING ATTORNEY SHALL NOT HAVE THE BURDEN OF DISPROVING SELF-DEFENSE. THIS SECTION SHALL NOT APPLY TO STRICT LIABILITY CRIMES.

SECTION 2. 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: March 25, 2003

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