

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1120

By: Dahm

AS INTRODUCED

An Act relating to crimes and punishment; creating Kyle's Law; amending 21 O.S. 2021, Section 733, which relates to justifiable homicide; requiring the state to award reimbursement of reasonable costs, fees and other expenses for persons found not guilty of murder; authorizing denial or reduction of awards; permitting appeal to certain courts; allowing for award for certain sustained injury; establishing criteria for claim of malicious prosecution; providing certain criteria for establishing malice; authorizing personal liability; requiring certain reporting; authorizing application to pending prosecutions; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as "Kyle's Law".

SECTION 2. AMENDATORY 21 O.S. 2021, Section 733, is amended to read as follows:

Section 733. A. Homicide is also justifiable when committed by any person in any of the following cases:

1 1. When resisting any attempt to murder such person, or to
2 commit any felony upon him, or upon or in any dwelling house in
3 which such person is;

4 2. When committed in the lawful defense of such person or of
5 another, when the person using force reasonably believes such force
6 is necessary to prevent death or great bodily harm to himself or
7 herself or another or to terminate or prevent the commission of a
8 forcible felony; or

9 3. When necessarily committed in attempting, by lawful ways and
10 means, to apprehend any person for any felony committed; or in
11 lawfully suppressing any riot; or in lawfully keeping and preserving
12 the peace.

13 B. As used in this section, "forcible felony" means any felony
14 which involves the use or threat of physical force or violence
15 against any person.

16 C. When a person is charged with murder but is found not guilty
17 due to justifiable homicide, this state shall reimburse the
18 defendant for all reasonable costs including loss of wages, legal
19 fees incurred, and other expenses involved in his or her defense.
20 The reimbursement is not an independent cause of action. To award
21 these reasonable costs the trier of fact must find that the
22 defendant's claim that the homicide was justified was sustained by a
23 preponderance of the evidence. If the trier of fact makes a
24 determination that homicide was justified, the judge shall determine

1 the amount of the award. If the trier of fact finds that the
2 accused did not meet his or her burden of proof by a preponderance
3 of the evidence, then the accused may appeal the finding to either
4 the Supreme Court or the Court of Criminal Appeals.

5 D. Notwithstanding a finding that a defendant's actions were
6 justified, if the trier of fact also determines that the defendant
7 was engaged in criminal conduct substantially related to the events
8 giving rise to the charges filed against the defendant, the judge
9 may deny or reduce the amount of the award. In determining the
10 amount of the award, the judge shall also consider the seriousness
11 of the initial criminal conduct.

12 E. When a homicide is determined to be justified and the
13 accused establishes that he or she has sustained injury due to
14 malicious prosecution, then such person shall be awarded fair and
15 just compensation.

16 F. In order to support a claim of malicious prosecution
17 pursuant to this section, a claimant shall establish:

18 1. That a prosecution for homicide was commenced against the
19 claimant;

20 2. That the prosecution was malicious;

21 3. That the prosecution was instituted or instigated by the
22 prosecutor;

23 4. That the prosecution was without probable cause;
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1 5. That the prosecution has been legally and finally terminated
2 in favor of the claimant; and

3 6. That as a result of the criminal prosecution the claimant
4 sustained injury.

5 G. Malice for purposes of this section may be established if
6 the principal motive of the prosecution was other than a desire to
7 bring an offender to justice, or that it was done with ill will or
8 hatred, or willfully done in a wanton or oppressive manner, and in
9 conscious disregard of the claimant's rights.

10 H. A prosecutor may be held personally liable to a claimant if
11 malicious prosecution is established pursuant to this section.

12 I. When a malicious prosecution is established pursuant to this
13 section, any judge having presided over any stage of the criminal
14 prosecution shall immediately report the finding to the Oklahoma Bar
15 Association for a disciplinary investigation of both the prosecutor
16 and the elected district attorney who employs the prosecutor.

17 J. The provisions of this section shall extend to pending
18 prosecutions prior to the effective date of this act.

19 SECTION 3. This act shall become effective November 1, 2022.

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