

**First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 03-0372.01 Michael Dohr

HOUSE BILL 03-1148

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A BILL FOR AN ACT

101 **CONCERNING RESTORATION OF SELF-DEFENSE AS A DEFENSE IN**
102 **CRIMINAL CASES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

States that it is the intent of the general assembly that a person be able to raise self-defense as an affirmative defense in any case regardless of the mens rea which is an element of the charged crime. Requires the court to give a self-defense jury instruction in any case in which there is some evidence before the court of self-defense.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
March 10, 2003

SENATE
2nd Reading Unamended
March 7, 2003

HOUSE
3rd Reading Unamended
February 5, 2003

HOUSE
Amended 2nd Reading
February 3, 2003

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

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

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

19 **SECTION 2. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.