

ASSEMBLY BILL NO. 321—ASSEMBLYMEN OCEGUERA, ANDERSON, KIRKPATRICK, ATKINSON, HAMBRICK; AIZLEY, BENITEZ-THOMPSON, BOBZIEN, BUSTAMANTE ADAMS, CARRILLO, CONKLIN, DALY, DIAZ, DONDERO LOOP, ELLISON, FLORES, FRIERSON, GOEDHART, GOICOECHEA, GRADY, HAMMOND, HANSEN, HARDY, HICKEY, HOGAN, HORNE, KIRNER, KITE, LIVERMORE, MCARTHUR, MUNFORD, NEAL, OHRENSCHALL, SEGERBLOM, SHERWOOD, SMITH, STEWART AND WOODBURY

MARCH 18, 2011

JOINT SPONSORS: SENATORS HARDY;
GUSTAVSON, HORSFORD AND LEE

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the use of force. (BDR 15-963)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the use of force; revising the provisions governing justifiable homicide; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing case law, there is no duty to retreat before using deadly force if
2 the person using deadly force is not the original aggressor and reasonably believes
3 that he or she is about to be killed or seriously injured. (*Culverson v. State*, 106
4 Nev. 484 (1990)) This bill provides that under the defense of justifiable homicide
5 there is no duty to retreat if the person using deadly force: (1) is not the original
6 aggressor; (2) has a right to be present at the location where deadly force is used;
7 and (3) is not engaged in criminal activity at the time deadly force is used.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 200.120 is hereby amended to read as follows:
2 200.120 **1.** Justifiable homicide is the killing of a human
3 being in necessary self-defense, or in defense of habitation, property
4 or person, against one who manifestly intends or endeavors, by
5 violence or surprise, to commit a felony, or against any person or
6 persons who manifestly intend and endeavor, in a violent, riotous,
7 tumultuous or surreptitious manner, to enter the habitation of
8 another for the purpose of assaulting or offering personal violence to
9 any person dwelling or being therein.
- 10 **2.** *A person is not required to retreat before using deadly*
11 *force as provided in subsection 1 if the person:*
- 12 **(a)** *Is not the original aggressor;*
13 **(b)** *Has a right to be present at the location where deadly force*
14 *is used; and*
15 **(c)** *Is not engaged in criminal activity at the time deadly force*
16 *is used.*

