

SENATE BILL NO. 254—SENATORS FORD, ATKINSON, SPEARMAN, DENIS, CANCELA; CANNIZZARO, MANENDO, PARKS, RATTI AND WOODHOUSE

MARCH 9, 2017

JOINT SPONSORS: ASSEMBLYMEN FRIERSON, McCURDY II, NEAL, THOMPSON, CARRILLO; FLORES, JAUREGUI, MILLER AND MONROE-MORENO

Referred to Committee on Judiciary

SUMMARY—Removes provision that provides immunity from civil liability in actions involving use of force under certain circumstances. (BDR 3-683)

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 civil liability; removing the provision of law that provides immunity from civil liability in actions involving the use of force in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a person who uses force which is intended or likely
2 to cause death or bodily injury is immune from civil liability in an action to recover
3 damages for personal injuries to or the wrongful death of a person against whom
4 such force was used if the use of such force was justified under the applicable
5 provisions of Nevada criminal law. (NRS 41.095) This bill removes this provision
6 of existing law.

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

1 **Section 1.** NRS 41.095 is hereby amended to read as follows:
2 41.095 1. For the purposes of NRS 41.085 and 41.130, any
3 person who **uses**:



* S B 2 5 4 *

1 ~~(a) While~~, **while** lawfully in his or her residence, in transient
2 lodging or in a motor vehicle that is not his or her residence, **uses**
3 force which is intended or likely to cause death or bodily injury is
4 presumed to have had a reasonable fear of imminent death or bodily
5 injury to himself or herself or another person lawfully in the
6 residence, transient lodging or motor vehicle if the force is used
7 against a person who is committing burglary, invasion of the home
8 or grand larceny of the motor vehicle with the use or threatened use
9 of a deadly weapon and the person using the force knew or had
10 reason to believe that burglary, invasion of the home or grand
11 larceny of the motor vehicle with the use or threatened use of a
12 deadly weapon was being committed. An action to recover damages
13 for personal injuries to or the wrongful death of the person who
14 committed burglary, invasion of the home or grand larceny of the
15 motor vehicle with the use or threatened use of a deadly weapon
16 may not be maintained against the person who used such force
17 unless the presumption is overcome by clear and convincing
18 evidence to the contrary.

19 ~~(b) Force which is intended or likely to cause death or bodily
20 injury is immune from civil liability in an action to recover damages
21 for personal injuries to or the wrongful death of a person against
22 whom such force was used if the use of such force was justified
23 under the applicable provisions of chapter 200 of NRS relating to
24 the use of such force.]~~

25 2. As used in this section:

26 (a) "Deadly weapon" has the meaning ascribed to it in
27 NRS 193.165.

28 (b) "Motor vehicle" means every vehicle which is
29 self-propelled.

30 (c) "Residence" means any house, room, apartment, tenement or
31 other building, vehicle, vehicle trailer, semitrailer, house trailer or
32 boat designed or intended for occupancy as a residence.

33 **Sec. 2.** The amendatory provisions of this act apply to a civil
34 action that is filed on or after the effective date of this act.

35 **Sec. 3.** This act becomes effective upon passage and approval.

