

JAN 16 2014

A BILL FOR AN ACT

RELATING TO CIVIL LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663-A Justification; limited liability.

5 (a) A person who is not engaged in an unlawful activity and
6 who justifiably uses force, as set forth in sections 703-302
7 through 703-309, shall not be liable in tort to any perpetrator
8 engaged in any of the felonies set forth in subsection (b) for
9 any injury or death to the perpetrator that occurs during the
10 course of or after the commission of such felony, or when a
11 reasonable person would believe that commission of a felony as
12 set forth in subsection (b) is imminent; provided that if the
13 perpetrator is injured, or charged with the criminal offense and
14 convicted of the criminal offense as charged or of a lesser
15 included felony or misdemeanor committed contemporaneously with
16 the use of force.

17 (b) This section applies to the following felonies:

18 (1) Murder in the first or second degree;



- 1 (2) Attempted murder in the first or second degree;
- 2 (3) Any class A felony as provided in the Hawaii
- 3 Penal Code, including any attempt or conspiracy to
- 4 commit a crime classified as a class A felony;
- 5 (4) Any class B felony involving violence or physical
- 6 harm as provided in the Hawaii Penal Code;
- 7 (5) Any felony punishable by imprisonment for life;
- 8 (6) Any other felony in which the person inflicts
- 9 serious bodily injury on another person; and
- 10 (7) Any felony in which the person personally used a
- 11 firearm or a dangerous or deadly weapon.

12 (c) The limitation on liability under this section arises:

- 13 (1) At the moment the perpetrator commences the
- 14 felony to which this section applies; or
- 15 (2) At the moment the person believes that a
- 16 commission of a felony under subsection (b) is
- 17 imminent.

18 (d) The limitation on liability under this section applies

19 only when the perpetrator's conduct in furtherance of the

20 commission of a felony specified in subsection (b) proximately

21 or legally causes the injury or death.

1 (e) This section does not limit the liability of an owner
2 that otherwise exists for:

- 3 (1) Wilful, wanton, or criminal conduct; or
4 (2) Wilful or malicious failure to guard or warn
5 against a dangerous condition, use, or structure; or
6 (3) Injury or death caused to individuals other than
7 the perpetrator of the felony.

8 (f) Except with regard to subsections (e) (1) and (e) (3),
9 the limitation of liability under this section shall not be
10 affected by the failure of the person to warn the perpetrator of
11 the felony that the person is armed and ready to cause bodily
12 harm or death.

13 (g) The limitation on liability provided by this section
14 shall be in addition to any other available defense."

15 SECTION 2. Section 703-301, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§703-301 Justification a defense; civil remedies**

18 [~~unaffected~~]. (1) In any prosecution for an offense,
19 justification, as defined in sections 703-302 through 703-309,
20 is a defense.

21 (2) The fact that conduct is justifiable under this
22 chapter [~~does not~~] shall abolish [~~or impair~~] any remedy for such



1 conduct which is available in any civil action[-] only to the
2 extent provided within section 663-A."

3 SECTION 3. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Shiranne Chun Clark



S.B. NO. 2158

Report Title:

Civil Liability; Limitation; Justification; Use of Force

Description:

Provides that the use of force, justifiable as a defense under sections 703-302 through 703-309 of the Penal Code, shall limit a person's civil liability as to a perpetrator who suffers injury or death; provided that, if injured, the offender is ultimately convicted of a crime.

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