

JAN 25 2012

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

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

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

18      (2) Attempted murder in the first or second degree;



(3) Any class A felony as provided in the Hawaii Penal Code, including any attempt or conspiracy to commit a crime classified as a class A felony;

(4) Any class B felony involving violence or physical harm as provided in the Hawaii Penal Code;

(5) Any felony punishable by imprisonment for life;

(6) Any other felony in which the person inflicts serious bodily injury on another person; and

(7) Any felony in which the person personally used a firearm or a dangerous or deadly weapon.

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

(1) At the moment the perpetrator commences the felony to which this section applies; or

(2) At the moment the person believes that a commission of a felony under subsection (b) is imminent.

(d) The limitation on liability under this section applies only when the perpetrator's conduct in furtherance of the commission of a felony specified in subsection (b) proximately or legally causes the injury or death.

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

(1) Wilful, wanton, or criminal conduct; or



(2) Wilful or malicious failure to guard or warn against a dangerous condition, use, or structure; or

(3) Injury or death caused to individuals other than the perpetrator of the felony.

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

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

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

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

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

(2) The fact that conduct is justifiable under this chapter ~~[does not]~~ shall abolish ~~[or impair]~~ any remedy for such conduct which is available in any civil action~~[-]~~ only to the extent provided within section 663-A."

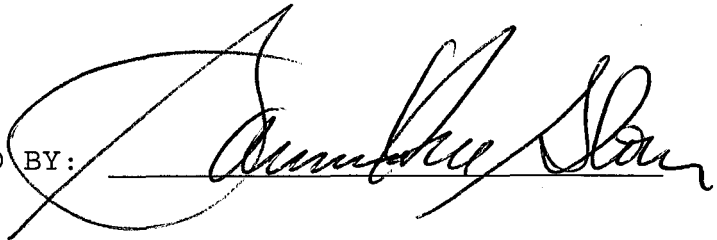


1       SECTION 3. In codifying the new sections added by section  
2 1 of this Act, the revisor of statutes shall substitute  
3 appropriate section numbers for the letters used in designating  
4 the new sections in this Act.

5       SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

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

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9  
INTRODUCED BY: \_\_\_\_\_





# S.B. NO. 2995

**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

