

ASSEMBLY BILL NO. 396—COMMITTEE ON JUDICIARY

MARCH 24, 2021

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to the use of deadly force. (BDR 15-1042)

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 peace officers; revising provisions relating to justifiable homicide; revising provisions relating to the use of deadly force to effectuate an arrest; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes an officer, if necessary to prevent the escape of a person and after giving a warning, if feasible, to use deadly force to effectuate the arrest of the person if there is probable cause to believe that the person: (1) has committed a felony involving the infliction or threat of serious bodily harm or the use of deadly force; or (2) poses a threat of serious bodily harm to the officer or others. (NRS 171.1455) **Section 2** of this bill limits the persons authorized to use deadly force to effectuate an arrest to a peace officer, rather than an officer, and defines the term "peace officer" for such purposes. **Section 2** also requires the peace officer to have probable cause to believe that the person: (1) has committed a felony involving the infliction or threat of serious bodily harm or the use of deadly force; and (2) poses an imminent threat of serious bodily harm to the peace officer or others.

Existing law provides that homicide committed by a public officer, or a person acting under the command and in aid of the public officer, is justifiable: (1) in obedience to the judgment of a court; (2) when necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty; (3) when necessary to retake an escaped or rescued prisoner who has been committed, arrested for or convicted of a felony; (4) when necessary in attempting to apprehend or arrest a person; (5) when necessary to lawfully suppress a riot or preserve the peace; or (6) in protecting against an imminent threat to the life of a person. (NRS 200.140) Existing law defines "public officer" for such purposes as: (1) any officer, member or employee of this State or any political subdivision thereof; (2) any officer, member or employee of any special district, public corporation or quasi-public corporation of this State; (3) any officer, member or employee of any agency, board or



commission established by this State or any political subdivision thereof; and (4) all other persons exercising or assuming to exercise the powers or functions of a public officer. (NRS 193.019)

**Section 1** of this bill revises the persons who are authorized to assert that a homicide was justifiable to include peace officers and persons acting under the command and in the aid of a peace officer, rather than public officers and persons acting under the command and in the aid of a public officer. **Section 1** also limits the circumstances under which a homicide committed by any such person is justifiable to those circumstances where the homicide: (1) is committed in obedience of the judgment of a court; or (2) results from the use of deadly force by a peace officer in accordance with **section 2**.

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

**Section 1.** NRS 200.140 is hereby amended to read as follows:

200.140 **1.** Homicide is justifiable when committed by a ~~[public]~~ **peace** officer, or person acting under the command and in the aid of the ~~[public]~~ **peace** officer, in the following cases:

~~[(1)]~~ **(a)** In obedience to the judgment of a competent court ~~[(1)]~~ ;  
**or**

~~[(2)]~~ **(b)** When ~~[necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty.~~

~~—3. When necessary:~~

~~—(a) In retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of a felony;~~

~~—(b) In attempting, by lawful ways or means, to apprehend or arrest a person;~~

~~—(c) In lawfully suppressing a riot or preserving the peace; or~~

~~—(d) In protecting against an imminent threat to the life of a person.]~~ **the homicide results from the use of deadly force by the peace officer in accordance with NRS 171.1455.**

**2.** As used in this section, “peace officer” has the meaning ascribed to it in NRS 169.125.

**Sec. 2.** NRS 171.1455 is hereby amended to read as follows:

171.1455 If necessary to prevent escape, ~~[an]~~ **a peace** officer may, after giving a warning, if feasible, use deadly force to effect the arrest of a person only if there is probable cause to believe that the person:

**1.** Has committed a felony which involves the infliction or threat of serious bodily harm or the use of deadly force; ~~[or]~~ **and**

**2.** Poses ~~[a]~~ **an imminent** threat of serious bodily harm to the **peace** officer or to others.



1      **Sec. 3.** This act becomes effective on July 1, 2021.

