

SENATE BILL NO. 245—SENATORS HANSEN,
STONE AND GOICOECHEA

MARCH 9, 2023

JOINT SPONSOR: ASSEMBLYMAN GRAY

Referred to Committee on Government Affairs

SUMMARY—Provides that peace officers are immune from civil liability under certain circumstances. (BDR 3-1023)

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 actions; providing that peace officers are immune from civil liability under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the State: (1) waives its immunity from liability in civil actions; and (2) consents to have its liability determined in accordance with the same rules of law governing civil actions against natural persons and corporations. (NRS 41.031) Existing law creates certain exceptions to this waiver of immunity from liability, thereby providing immunity from liability to certain state actors under certain circumstances. (NRS 41.032-41.036) **Section 1** of this bill provides immunity from liability to peace officers for damages based solely on the deprivation of rights, privileges or immunities secured by the Nevada Constitution under certain circumstances. **Section 2** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Section 3 of this bill provides that the amendatory provisions of this bill apply to a cause of action that accrues on or after the effective date of this bill.



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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. No action may be brought under NRS 41.031 or against a peace officer for damages based solely on the deprivation of rights, privileges or immunities secured by the Nevada Constitution unless:

(a) The right, privilege or immunity was clearly established at the time the alleged violation occurred and no reasonable peace officer could have concluded that the conduct of the peace officer was lawful; or

(b) A court of competent jurisdiction had issued a final decision on the merits holding that the specific type of conduct in which the peace officer engaged is unlawful and that decision had not been reversed or vacated at the time the alleged violation occurred.

2. In any action brought under this section, the plaintiff must state with particularity:

(a) The facts and circumstances relating to the alleged violation; and

(b) The right, privilege or immunity that was clearly established at the time the alleged violation occurred.

3. The court shall dismiss an action brought under this section with prejudice if the plaintiff fails to comply with the requirements prescribed by subsection 2.

4. As used in this section, "peace officer" has the meaning ascribed to it in NRS 289.010.

Sec. 2. NRS 41.031 is hereby amended to read as follows:

41.031 1. The State of Nevada hereby waives its immunity from liability and action and hereby consents to have its liability determined in accordance with the same rules of law as are applied to civil actions against natural persons and corporations, except as otherwise provided in NRS 41.032 to 41.038, inclusive, *and section 1 of this act*, 485.318, subsection 3 and any statute which expressly provides for governmental immunity, if the claimant complies with the limitations of NRS 41.010 or the limitations of NRS 41.032 to 41.036, inclusive *H*, *and section 1 of this act*. The State of Nevada further waives the immunity from liability and action of all political subdivisions of the State, and their liability must be determined in the same manner, except as otherwise provided in NRS 41.032 to 41.038, inclusive, *and section 1 of this act*, subsection 3 and any statute which expressly provides for governmental immunity, if the



claimant complies with the limitations of NRS 41.032 to 41.036, inclusive ~~H~~, and section 1 of this act.

2. An action may be brought under this section against the State of Nevada or any political subdivision of the State. In any action against the State of Nevada, the action must be brought in the name of the State of Nevada on relation of the particular department, commission, board or other agency of the State whose actions are the basis for the suit. An action against the State of Nevada must be filed in the county where the cause or some part thereof arose or in Carson City. In an action against the State of Nevada, the summons and a copy of the complaint must be served upon:

(a) The Attorney General, or a person designated by the Attorney General, at the Office of the Attorney General in Carson City; and

(b) The person serving in the office of administrative head of the named agency.

3. The State of Nevada does not waive its immunity from suit conferred by Amendment XI of the Constitution of the United States.

Sec. 3. The amendatory provisions of this act apply to a cause of action that accrues on or after the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

