

# MEMORANDUM

Agenda Item No. 11(A)(1)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners


**DATE:** November 19, 2013

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution supporting SB 270,  
HB 293 or similar legislation  
that would (I) require an overt  
act before Florida's Stand Your  
Ground Law can be invoked  
and (II) create an exception  
to Florida's Stand Your Ground  
Law if a child or bystander  
who is not affiliated with the  
overt act is injured

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.

  
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R. A. Cuevas, Jr.  
County Attorney

RAC/lmp



# MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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**FROM:**   
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County Attorney

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(1)  
11-19-13

RESOLUTION NO. \_\_\_\_\_

RESOLUTION SUPPORTING SB 270, HB 293 OR SIMILAR LEGISLATION THAT WOULD (I) REQUIRE AN OVERT ACT BEFORE FLORIDA'S STAND YOUR GROUND LAW CAN BE INVOKED, AND (II) CREATE AN EXCEPTION TO FLORIDA'S STAND YOUR GROUND LAW IF A CHILD OR BYSTANDER WHO IS NOT AFFILIATED WITH THE OVERT ACT IS INJURED

**WHEREAS**, Senator Dwight Bullard (D-Cutler Bay) has filed SB 270 and Representative Cynthia Stafford (D - Opa Locka) has filed HB 293 for consideration during the 2014 session of the Florida Legislature related to Florida's Stand Your Ground law, section 776.013, Florida Statutes; and

**WHEREAS**, SB 270 and HB 293 would not repeal Florida's Stand Your Ground law, but would instead make two key revisions to the law; it would:

1. Require an overt act before the Stand Your Ground law can be invoked; and
2. Create an exception if a child or bystander who is not affiliated with the overt act is injured; and

**WHEREAS**, Florida's Stand Your Ground law currently does not require an overt act by the attacker before Florida's Stand Your Ground law can be invoked by a person who is being attacked; and

**WHEREAS**, instead, the Stand Your Ground law currently provides that the person who is being attacked only has to reasonably believe that it is necessary to meet force with force, including deadly force, to prevent death or great bodily harm, or to prevent the commission of a forcible felony, but no over act by the attacker is required; and

**WHEREAS**, SB 270 and HB 293 would amend Florida's Stand Your Ground law to require the attacker to commit an overt act before Stand Your Ground can be invoked; and

**WHEREAS**, SB 270 and HB 293 would make a second change to Florida's Stand Your Ground law by creating an additional exception to the law; and

**WHEREAS**, currently, Florida's Stand Your Ground law only provides one exception from civil or criminal liability, which is related to a law enforcement officer; and

**WHEREAS**, the exception applies if the person against whom force is used is a law enforcement officer acting in his or her official duties and either (i) the officer identifies him or herself as such, or (ii) the person using force knew or reasonably should have known that the person was a law enforcement officer; and

**WHEREAS**, SB 270 and HB 293 would amend Florida's Stand Your Ground law to provide a second exception if a child or bystander who is not affiliated with the overt act is injured; and

**WHEREAS**, the changes included in SB 270 and HB 293 to Florida's Stand Your Ground law would:

1. Require an overt act by an attacker for someone to use Florida's Stand Your Ground law as a defense; and
2. Ensure that the law does not provide immunity from civil or criminal liability when a child or bystander who is not affiliated with any overt act is injured; and

**WHEREAS**, this Board urges the Florida Legislature to make the modifications to Florida's Stand Your Ground law that are proposed in SB 270 and HB 293,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board:

**Section 1.** Supports SB 270, HB 293, or similar legislation that would:

- a. Require an overt act before Florida's Stand Your Ground law can be invoked; and
- b. Eliminate the immunity from liability provided by Florida's Stand Your Ground law if a child or bystander who is not affiliated with the overt act is injured.

**Section 2.** Urges the Florida Legislature to enact SB 270, HB 293 or similar legislation.

**Section 3.** Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, Senate President, House Speaker, Senator Dwight Bullard, Representative Cynthia Stannford and the Chair and Remaining Members of the Miami-Dade County State Legislative Delegation.

**Section 4.** Directs the County's state lobbyists to advocate the passage of the legislation identified in Sections 1 and 2 above, and directs the Office of Intergovernmental Affairs to include this item in the 2014 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Jean Monestime. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman  
Lynda Bell, Vice Chair

Bruno A. Barreiro  
Jose "Pepe" Diaz  
Sally A. Heyman  
Jean Monestime  
Sen. Javier D. Souto  
Juan C. Zapata

Esteban L. Bovo, Jr.  
Audrey M. Edmonson  
Barbara J. Jordan  
Dennis C. Moss  
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 19<sup>th</sup> day of November, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Jess M. McCarty