

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE USE OF FORCE.

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

1 SECTION 1. Section 703-304, Hawaii Revised Statutes, is
2 amended as follows:

3 1. Subsection (2) is amended to read:

4 "(2) The use of deadly force is justifiable under this
5 section if [~~the~~]:

6 (a) The actor believes that deadly force is necessary to
7 protect [~~himself~~] the actor against death, serious
8 bodily injury, kidnapping, rape, or forcible
9 sodomy[-]; or

10 (b) The actor uses the deadly force in the actor's
11 dwelling against a person, not lawfully present in the
12 actor's dwelling, who uses force against the actor."

13 2. Subsection (5) is amended to read:

14 "(5) The use of deadly force is not justifiable under this
15 section if:



- 1 (a) The actor, with the intent of causing death or serious
2 bodily injury, provoked the use of force against
3 ~~[himself]~~ the actor in the same encounter; or
- 4 (b) The actor knows that ~~[he]~~ the actor can avoid the
5 necessity of using such force with complete safety by
6 retreating or by surrendering possession of a thing to
7 a person asserting a claim of right thereto or by
8 complying with a demand that ~~[he]~~ the actor abstain
9 from any action which ~~[he]~~ the actor has no duty to
10 take, except that:
- 11 (i) The actor is not obliged to retreat from ~~[his]~~
12 the actor's dwelling, ~~[or]~~ place of work, or any
13 other place in which the actor may lawfully be
14 present unless ~~[he]~~ the actor was the initial
15 aggressor ~~[or is assailed in his place of work by~~
16 ~~another person whose place of work the actor~~
17 ~~knows it to be]~~; and
- 18 (ii) A public officer justified in using force in the
19 performance of ~~[his]~~ the officer's duties, or a
20 person justified in using force in ~~[his]~~ the
21 person's assistance or a person justified in
22 using force in making an arrest or preventing an



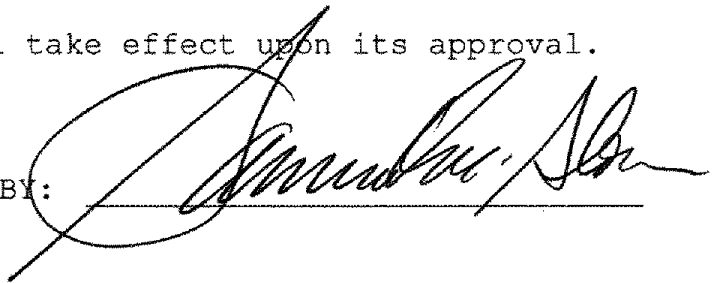
1 escape, is not obliged to desist from efforts to
2 perform [~~his~~] a duty, effect the arrest, or
3 prevent the escape because of resistance or
4 threatened resistance by or on behalf of the
5 person against whom the action is directed."

6 SECTION 2. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 3. This Act shall take effect upon its approval.

9

INTRODUCED BY:

A large, stylized handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be the name of a legislator.

Report Title:

Self-Defense; Deadly Force; Duty to Retreat

Description:

Permits the use of deadly force by the resident of a dwelling against person not lawfully in the dwelling who uses force against the resident. Expands the exemption from the duty to retreat from the home and work place to any place where the actor may lawfully be present.

