
A BILL FOR AN ACT

RELATING TO 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. By amending subsection (2) 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 who is present in the
12 actor's dwelling in violation of the law and who uses
13 force against the actor."

14 2. By amending subsection (5) to read:

15 "(5) The use of deadly force is not justifiable under this
16 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 can avoid]~~ the necessity of
5 using such force by the actor can be avoided with
6 complete safety by retreating or by surrendering
7 possession of a thing to a person asserting a claim of
8 right thereto or by complying with a demand that ~~[he]~~
9 the actor abstain from any action which ~~[he]~~ the actor
10 has no duty to 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]~~
21 assistance of the officer, or a person justified
22 in using force in making an arrest or preventing

1 an escape, is not obliged to desist from efforts
2 to 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 Statutory material to be repealed is bracketed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 on July 1, 2050.

Report Title:

Self-Defense; Deadly Force; Duty to Retreat

Description:

Permits the use of deadly force by the resident of a dwelling against a person not lawfully in the dwelling who uses force against the resident. Expands the exemption from the duty to retreat from the home and workplace to any place where the actor may lawfully be present. Effective July 1, 2050. (SD1)