

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



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OUR REFERENCE GB-KK

February 13, 2019

The Honorable Gregg Takayama, Chair
and Members
Committee on Public Safety, Veterans,
and Military Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 430
Honolulu, Hawaii 96813

Dear Chair Takayama and Members:

SUBJECT: House Bill No. 792, Relating to Use of Force

I am Gail Beckley, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 792, Relating to Use of Force.

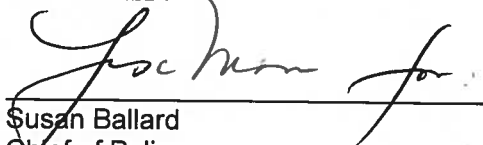
Tragic incidences in Hawaii and across the nation have drawn attention to the use of deadly force in self-protection of home and property. Justifying the use of force based on a perception of simply "an imminent threat of physical harm, bodily injury, or assault" is an extremely low standard. To justify the use of deadly force using this perceived standard is an invitation for future tragic events and potential accidents that may turn unnecessary deadly force into criminal proceedings.

The current Hawaii Revised Statute, Section 703-304 (as written), adequately defines the conditions deadly force is justifiable for self-protection and provides a more reasonable guideline to protect all citizens of this state.

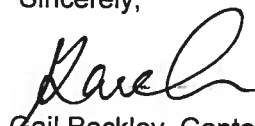
The HPD urges you to oppose House Bill No. 792, Relating to Use of Force.

Thank you for the opportunity to testify.

APPROVED:


Susan Ballard
Chief of Police

Sincerely,


Gail Beckley, Captain
Criminal Investigation Division



The Honorable Gregg Takayama, Chair
The Honorable Cedric Asuega Gates
House Committee on Public Safety, Veterans, and Military Affairs

State Capitol, Room 430
Honolulu, Hawaii 96813

HEARING: Wednesday, February 13, 2019, at 10:00am

RE: HB792 Relating to Use of Force

Aloha Members of the House Committee,

The Hawaii Firearms Coalition SUPPORTS WITH AMENDMENTS HB792.

This bill will help to strengthen victim's rights by lessening their burden of proving they acted correctly. Victims whom went through a life and death situation are faced with police investigations and possible court trial.

Victims facing murder, rape, serious bodily injury, and kidnapping may only have a split second to act and don't have the benefit of going through months of police training for use of force experience. Sometimes they must act before the first act of violence is made if they are in fear for their life. A punch can be all it takes to kill someone or render them unconscious and vulnerable.

There is a concern that must be addressed with this bill. Bodily injury or Assault in the third degree can include an injury that causes pain. A hard slap such as in a domestic violence incident can be considered bodily injury/Assault 3 with the use of deadly force justified. This should be addressed. Some other states, such as Texas Title 2 Chapter 9 Sec 9.2, have the option to use forceful entry into a home in lieu of threat of death or serious bodily injury to justify self-defense. There should also be civil protections as victims may be innocent of criminal charges but face extensive costs in civil court.

For these reasons the Hawaii Firearms Coalition Supports HB792 with amendments. Thank you for your consideration.

Mahalo

Todd Yukutake
Director, Hawaii Firearms Coalition
PH. (808) 255-3066
Email: todd@hifico.org

HB-792

Submitted on: 2/12/2019 9:13:39 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

HB-792

Submitted on: 2/8/2019 3:15:17 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

HB-792

Submitted on: 2/9/2019 2:20:18 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:



Institute for Rational and Evidence-based Legislation

P. O. Box 41

Mountain View, Hawaii 96771

February 9, 2019

COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Chair, Vice Chair, and Members,

Please vote YES on HB792.

No person who responds with any level of force, including deadly force, in self-defense to any threat of “death, serious bodily injury, kidnapping, rape, or forcible sodomy” or ”an imminent threat of physical harm, bodily injury, or assault” should be subjected any kind of legal prosecution, either criminal or civil.

The legislature needs to pass a comprehensive law that protects victims of would-be criminals, both in their homes and outside, from any threat of prosecution, either criminal or civil. Please consider a law similar to what is currently being proposed, and likely to pass, in Indiana that accomplishes this goal. Hopefully HB792 can be amended to remedy this situation.

Here is a news article about the Indiana bill, followed by the the legislature's announcement and a link to the actual full bill.

Please vote YES on HB792 and consider adding via amendment the appropriate language to make it similar to the Indiana HB1284 which extends protection to victims from civil lawsuits in cases of justifiable self-defense.

Thank you,

George Pace

Bill proposes changing self-defense laws in Indiana to protect against civil suits

JEFFERSONVILLE, IN - When it comes to criminal cases, claiming self-defense is pretty common

and oftentimes, attorneys said it's justified. But that same justification doesn't apply to suits in civil cases.

Indiana House Bill 1284 would change that, allowing immunity for those who can show that self-defense was used in the case brought before the court. The proposed change would require a similar burden of proof needed to show self-defense in criminal cases.

Representative Jim Lucas (R-Seymour) said if it passes it could give Indiana one of the strongest self-defense laws in the country.

The need for this change in law all started because of a case in Ohio County, in southeastern Indiana, when a woman shot and killed a man who was resisting an officer, had taken his gun and was preparing to shoot, Lucas said.

She was cleared in criminal court by self-defense, but in civil court she wasn't covered and the family sued, running up tens of thousands of dollars in legal fees that she found herself unable to pay without help from fundraising.

Lucas said that shouldn't happen and it's why the law needs to change.

"No person should have to be put through the situation that Ms. Phillips was in, in protecting and defending the life of another innocent human being. And that's the purpose of this bill, in the justified use," Lucas said.

Attorney Justin Mills with Mills Law Office in Marengo, Indiana said this shifts the burden of proof and gives people who have successfully used self-defense in a situation a better chance in court.

"In the civil world, it's going to give them a defense and it's going to protect them, just as it does in the criminal world," Mills said. "And it's really going to put the burden on the plaintiff who is filing suit against them that they didn't have a justified means."

The bill would also require a court to award, in certain cases, reasonable attorney's fees and costs to the defendant when they can show justified use of force was used. That can help to prevent frivolous and unnecessary lawsuits from being brought forward and clogging up the courts, Lucas and Mills said.

<http://www.wave3.com/2019/02/06/bill-proposes-changing-self-defense-laws-indiana-protect-against-civil-suits/>

* * * * *

House Bill 1284

House Bill (H)

Authored by

Rep. Jim Lucas.

Co-Authored by

Rep. Christy Stutzman,

Rep. Ben Smaltz,

Rep. Terry Goodin.

DIGEST

Self-defense and the defense of others. Provides immunity for a justified use of force in certain instances. Requires a court to award, in certain instances, reasonable attorney's fees and costs to a defendant when the justified use of force immunity is successfully raised. Makes conforming amendments.

Text of full bill:

<http://iga.in.gov/legislative/2019/bills/house/1284#document-d48c46af>

HB-792

Submitted on: 2/9/2019 10:22:20 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Kacatin	Individual	Support	No

Comments:

I am in support of this measure as law abiding citizens MUST be able to exercise their natural right of self defense and self preservation against all threats without fear of criminal and civil prosecution.

HB-792

Submitted on: 2/10/2019 5:54:48 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
travis	Individual	Oppose	No

Comments:

I oppose this bill

HB-792

Submitted on: 2/11/2019 8:39:49 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joel Berg	Individual	Oppose	No

Comments:

I strongly oppose this bill. This law would circumvent due process to restrict a constitutional right to bear arms. Would this be acceptable if applied to free speech? Dangerous individuals should not have access to arms, but they should also have an opportunity to defend themselves from their accusers and not have their rights violated and their personal property confiscated without their day in court.

HB-792

Submitted on: 2/11/2019 2:01:32 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fred Delosantos	Individual	Support	No

Comments:

I support HB792. The ability to defend ones' self in my own home against death, serious bodily injury, kidnapping, rape, or forcible sodomy needs to be a right, by law. Too often, the criminal is treated as the victim in the state of Hawaii, and given more protections by law than the person defending themselves. This legislation is way overdue.

HB-792

Submitted on: 2/12/2019 9:38:58 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Logue	Individual	Support	No

Comments:

All people should have the absolute right to defend their family and property by any means necessary. Strong support, mahalo.

HB-792

Submitted on: 2/12/2019 9:52:02 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brendon Heal	Individual	Support	No

Comments:

Yes, this is needed to protect the people from the criminal element that is growing exponentially in this state.

I am a voter, and I promise you, no gun control and anti-Constitution legislator will never get another vote from me, or from those who would defend freedom.

HB-792

Submitted on: 2/12/2019 10:08:08 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christa Hewett	Individual	Support	No

Comments:

Hawaii lawmakers,

It is time that the citizens of the State of Hawaii be acknowledged to have the right to defend themselves using deadly force if another person unlawfully enters a home with intentions to do bodily harm. Your lack of regulation of those who break the law has empowered these individuals and it is YOUR responsibility as servants of the community to protect the law-abiding citizens. You have all sit around passing irrelevant and ridiculous bills while the hardworking taxpayer is being targeted by criminals at which at this point the law shields them from being properly brought to justice.

I would hope as decent human beings who have the state's best interests in mind, you pass this bill without hesitation as this could happen to your mother, father, wife, children, or yourself. As I would never wish any harm on any person, karma always comes back tenfold when we choose not to do the right thing.

As a taxpayer and proud citizen of Hawaii, I urge you to do the right thing and allow the people their right to defend themselves, which was never the government's place to take away in the first place. It is about time the government err on the side of good rather than evil.

HB-792

Submitted on: 2/12/2019 10:09:18 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
steven a kumasaka	Individual	Support	No

Comments:

support

HB-792

Submitted on: 2/12/2019 10:50:07 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
davin asato	Individual	Oppose	No

Comments:

To Whom It May Concern,

Please oppose HB792 in its current form. The language of, "inside the dwelling," needs to be removed. Acts of violence do not only happen when there is home invasions or even on one's property. It happens outside of that.

Please oppose HB792.

Thank you,

Davin Asato

HB-792

Submitted on: 2/12/2019 10:50:38 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcus Tanaka	Individual	Support	No

Comments:

I support this bill because it adds in "assault". Because under current law, use of deadly force inside the home is only allowed for "death, serious injury, kidnapping, rape, or sodomy" that is believed. Well this is very narrow and many times, if someone breaks into the home 1 does not know what the intent until it is to late. An intruder or multiple intruders will not announce "we're here to rape or sodomize". So by adding in assault gives the victim of the home invasion more time to see if use of deadly force is needed to repel an invasion.

HB-792

Submitted on: 2/12/2019 11:17:05 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Craig Kashiwai	Individual	Support	No

Comments:

HB-792

Submitted on: 2/12/2019 12:16:42 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Allen Kainoa Leong	Individual	Oppose	No

Comments:

I oppose.

There is no reason to change the current law based off of the notes that are added and removed. Leave it alone.

Brandon Leong

Secretary and NRA Certified Instructor for Lessons In Firearms Education Hawaii

HRA Director At Large

LATE

HB-792

Submitted on: 2/12/2019 2:46:47 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Devin Sasai	Individual	Support	Yes

Comments:

LATE

HB-792

Submitted on: 2/12/2019 6:25:56 PM
Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Quentin Kealoha	Individual	Oppose	No

Comments:

I OPPOSE HB792.

The use of force for self defense should not be limited to when an individual is within a dwelling, as there are numerous documented incidents indicating that most scenarios requiring self defense take place outside individuals living quarters, not within. As it would be nonsensical to tell law enforcement officers that they wouldn't be able to utilize their firearms for their own protection or the protection of the public unless a crime was being committed in a police station, so too is it nonsensical to restrict an individual to being able to protect themselves, their loved ones and their neighbors, unless within the confines of their dwelling.

LATE

HB-792

Submitted on: 2/12/2019 7:03:34 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alvin Rodrigues	Individual	Support	No

Comments:

I support this bill HB792 Everyone should feel and be safe in their home and not be punished for defending their families and themselves ESPECIALLY IN THEIR HOME. Thank you.

LATE

HB-792

Submitted on: 2/12/2019 9:17:01 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Matt	Individual	Support	No

Comments:

LATE

HB-792

Submitted on: 2/12/2019 7:43:20 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
charles Ferrer	Individual	Oppose	No

Comments:

I strongly support this bill. This will take away the burden of worrying if I use force to protect my family. There have been a lot of home invasions lately. Criminals are getting desperate, and committing these invasions in broad daylight.

LATE

HB-792

Submitted on: 2/12/2019 11:27:43 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carlo Barbasa	Individual	Oppose	No

Comments:

"protect the actor" - Honest question - is the use of deadly force to protect a spouse, a child, a family pet, or other person for whom the 'actor' cares for now illegal because this law only protects 'the actor'?

This law does nothing to prevent property crime. Here's an anecdote - two men break into a single woman's home. She's not a gun owner, so she grabs a knife to defend herself with. The men calmly say "I'm just getting a glass of water", take her belongings, and stroll out the door. Because there was no "imminent threat of physical harm, bodily injury, or assault", the men walked scott free, yet the woman has suffered financial and irreparable psychological damage.

Simple solution - adopt language which supports Castle Doctrine. The perpetrators already committed the crime by trespassing, they've forfeited their law-abiding status and should be subject to all consequences deemed necessary and appropriate by the homeowner.

HB-792

Submitted on: 2/13/2019 3:00:08 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

WE STRONGLY SUPPORT THIS BILL, BUT BELIEVE THAT THE LANGUAGE CREATES LOOPHOLES FOR THE ARREST and/or PROSECUTION OF AN ACTOR WHO HAS USED DEADLY FORCE UPON A PERSON OR PERSONS WHO UNLAWFULLY ENTER OR REMAIN IN THE ACTORS DWELLING. WE SEEK TO AMEND THE LANGUAGE TO PREVENT THE ACTOR FROM IMMEDIATELY BEING ARRESTED AND/OR CHARGE WITH AN OFFENSE IF IT IS A SITUATION OF THE ACTOR USING DEADLY FORCE UPON A PERSON WHO HAS UNLAWFULLY ENTERED OR REMAINED IN THE ACTORS HOME. Mahalo.

LATE

HB-792

Submitted on: 2/13/2019 8:18:24 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Soon	Individual	Support	No

Comments:

Support,

Unless I'm reading this wrong, isn't this common sense?

HB-792

Submitted on: 2/13/2019 9:05:44 AM

Testimony for PVM on 2/13/2019 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Choy	Individual	Support	No

Comments:

LATE

HB-792

Submitted on: 2/13/2019 12:51:49 PM

Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marc	Individual	Support	No

Comments:

LATE

HB-792

Submitted on: 2/13/2019 2:31:56 PM
Testimony for PVM on 2/13/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Hechtman	Individual	Support	No

Comments:

This bill should be ammended with a true Castle Doctrine.

Thank you, Robert Hechtman