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## A BILL FOR AN ACT

RELATING TO THE USE OF DEADLY FORCE.

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

1           SECTION 1. The purpose of this Act is to amend the law  
2 relating to the use of deadly force to clarify that in certain  
3 circumstances, a person using deadly force has no duty to  
4 retreat and has the right to stand the person's ground.

5           SECTION 2. Section 703-304, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§703-304 Use of force in self-protection.** (1) Subject  
8 to the provisions of this section and of section 703-308, the  
9 use of force upon or toward another person is justifiable when  
10 the actor believes that such force is immediately necessary for  
11 the purpose of protecting [~~himself~~] the actor against the use of  
12 unlawful force by the other person on the present occasion.

13           (2) The use of deadly force is justifiable under this  
14 section if the actor believes that deadly force is necessary to  
15 protect [~~himself~~] the actor against death, serious bodily  
16 injury, kidnapping, rape, or forcible sodomy. An actor who uses  
17 deadly force in accordance with this subsection does not have a



1 duty to retreat and has the right to stand the actor's ground if  
2 the actor using the deadly force is not engaged in criminal  
3 activity and is in a place where the actor has a right to be.

4 (3) Except as otherwise provided in subsections (4) and  
5 (5) of this section, a person employing protective force may  
6 estimate the necessity thereof under the circumstances as [~~he~~]  
7 the person believes them to be when the force is used without  
8 retreating, surrendering possession, doing any other act which  
9 [~~he~~] the person has no legal duty to do, or abstaining from any  
10 lawful action.

11 (4) The use of force is not justifiable under this  
12 section:

13 (a) To resist an arrest which the actor knows is being  
14 made by a law enforcement officer, although the arrest  
15 is unlawful; or

16 (b) To resist force used by the occupier or possessor of  
17 property or by another person on [~~his~~] the occupier or  
18 possessor's behalf, where the actor knows that the  
19 person using the force is doing so under a claim of  
20 right to protect the property, except that this  
21 limitation shall not apply if:



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1 (i) The actor is a public officer acting in the  
2 performance of [~~his~~] the public officer's duties  
3 or a person lawfully assisting [~~him~~] the public  
4 officer therein or a person making or assisting  
5 in a lawful arrest; or

6 (ii) The actor believes that [~~such~~] the force is  
7 necessary to protect [~~himself~~] the actor against  
8 death or serious bodily injury.

9 (5) The use of deadly force is not justifiable under this  
10 section if:

11 (a) The actor, with the intent of causing death or serious  
12 bodily injury, provoked the use of force against  
13 [~~himself~~] the actor in the same encounter; or

14 (b) The actor knows that [~~he~~] the actor can avoid the  
15 necessity of using [~~such~~] deadly force with complete  
16 safety [~~by retreating or~~] by surrendering possession  
17 of a thing to a person asserting a claim of right  
18 thereto or by complying with a demand that [~~he~~] the  
19 actor abstain from any action [~~which he~~] that the  
20 actor has no duty to take [~~, except that:~~



1           ~~(i) The actor is not obliged to retreat from his~~  
2           ~~dwelling or place of work, unless he was the~~  
3           ~~initial aggressor or is assailed in his place of~~  
4           ~~work by another person whose place of work the~~  
5           ~~actor knows it to be; and~~

6           (ii) A]; provided that a public officer justified in  
7           using force in the performance of [~~his~~] the  
8           public officer's duties, or a person justified in  
9           using force in [~~his~~] assistance of a public  
10           officer or a person justified in using force in  
11           making an arrest or preventing an escape, is not  
12           obliged to desist from efforts to perform [~~his~~]  
13           the person's duty, effect the arrest, or prevent  
14           the escape because of resistance or threatened  
15           resistance by or on behalf of the person against  
16           whom the action is directed.

17           (6) The justification afforded by this section extends to  
18           the use of confinement as protective force only if the actor  
19           takes all reasonable measures to terminate the confinement as  
20           soon as [~~he~~] the actor knows that [~~he~~] the actor safely can,



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1 unless the person confined has been arrested on a charge of  
2 crime."

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.  
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**Report Title:**

Self-Defense; Deadly Force; No Duty to Retreat; "Stand Your Ground" Law

**Description:**

Amends the law relating to the use of deadly force to clarify that in certain circumstances, a person using deadly force has no duty to retreat and has the right to stand the person's ground.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

