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## A BILL FOR AN ACT

RELATING TO SELF-DEFENSE

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

1           SECTION 1. The legislature finds that the people of Hawaii  
2 are fearful for their safety due to the increase in violent  
3 crime across the state. The recent surge of armed robberies,  
4 violent attacks, shootings, and murder in the state compels  
5 people to consider ways to protect themselves, others, and their  
6 property from those who seek to commit unlawful acts. Current  
7 law does not provide a full-range of protection to law-abiding  
8 citizens in situations where real harm can occur.

9           The legislature also finds twenty-seven states have  
10 implemented robust self-protection legislation, often described  
11 as "Stand Your Ground" laws, to ensure law-abiding citizens are  
12 able to execute their right to protect themselves, others, and  
13 their property without fear of prosecution. The goal of any law  
14 should be to empower law-abiding citizens, not the perpetrators.  
15 The purpose of this Act is to expand law-abiding citizens' right  
16 of self-protection.



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

3 "§703-304 Use of force in self-protection (1) Subject to  
4 the provisions of this section and of section 703-308, the use  
5 of force upon or toward another person is justifiable when the  
6 actor believes that such force is immediately necessary for the  
7 purpose of protecting himself, his property, or a third person  
8 against the use of unlawful force by the other person on the  
9 present occasion.

10 (2) The use of deadly force is justifiable under this  
11 section if the actor believes that deadly force is necessary to  
12 defend oneself, another person, or in defense of a legally  
13 occupied habitation or motor vehicle against one who intends or  
14 endeavors to use unlawful force, or against one who intends and  
15 endeavors to enter the legally occupied habitation or motor  
16 vehicle of another for the purpose of assaulting or offering  
17 personal violence to any person residing or being therein. There  
18 is no duty for the victim to retreat under this section if:

19 (a) The person is in a place where they have a right  
20 to be, including the person's place of business; and

21 (b) The person is not engaged in an unlawful activity.



1 ~~[protect himself against death, serious bodily injury,~~  
2 ~~kidnapping, rape, or forcible sodomy.]~~

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

9 (4) The use of force is not justifiable under this  
10 section[+]

11 ~~(a) To resist an arrest which the actor knows is being~~  
12 ~~made by a law enforcement officer, although the arrest is~~  
13 ~~unlawful,]~~ To resist a law enforcement officer or a private  
14 person assisting a law enforcement officer acting in the  
15 performance of their official duties and they identify  
16 themselves in accordance with applicable law or the person using  
17 force knows or reasonably should have known the person is a law  
18 enforcement officer.

19 ~~(b) To resist force used by the occupier or possessor of~~  
20 ~~property or by another person on his behalf, where the~~  
21 ~~actor knows that the person using the force is doing~~



1           ~~so under a claim of right to protect the property,~~  
2           ~~except that this limitation shall not apply if:~~

3           ~~(i) The actor is a public officer acting in the~~  
4           ~~performance of his duties or a person lawfully~~  
5           ~~assisting him therein or a person making or~~  
6           ~~assisting in a lawful arrest.; or~~

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

10           ~~" [(5) The use of deadly force is not justifiable under~~  
11           ~~this section if:~~

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

15           ~~(b) The actor knows that he can avoid the necessity of~~  
16           ~~using such force with complete safety by retreating or~~  
17           ~~by surrendering possession of a thing to a person~~  
18           ~~asserting a claim of right thereto or by complying~~  
19           ~~with a demand that he abstain from any action which he~~  
20           ~~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 public officer justified in using force in the~~  
7           ~~performance of his duties, or a person justified~~  
8           ~~in using force in his assistance or a person~~  
9           ~~justified in using force in making an arrest or~~  
10           ~~preventing an escape, is not obliged to desist~~  
11           ~~from efforts to perform his duty, effect the~~  
12           ~~arrest, or prevent the escape because of~~  
13           ~~resistance or threatened resistance by or on~~  
14           ~~behalf of the person against whom the action is~~  
15           ~~directed.]~~

16           ~~[(6)]~~ (5) The justification afforded by this section  
17 extends to the use of confinement as protective force only if  
18 the actor takes all reasonable measures to terminate the  
19 confinement as soon as he knows that he safely can unless the  
20 person confined has been arrested on a charge of crime.



1        (6) A person who uses force, including deadly force, as  
2 justified and permitted under subsections (1) and (2) is immune  
3 from criminal prosecution and civil action for the use of such  
4 force, unless the force was determined to be unlawful."

5        SECTION 3. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7        SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: Palmer A

JAN 17 2020



# H.B. NO. 1967

**Report Title:**

Self-protection, Public safety, Lethal force

**Description:**

Clarifies when force may be used to protect self, property, or a third person against unlawful force that could cause bodily harm.

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

