
A BILL FOR AN ACT

RELATING TO THE USE OF FORCE IN SELF-PROTECTION.

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

1 SECTION 1. The legislature finds that due to the
2 coronavirus disease 2019 (COVID-19) pandemic, residents are
3 spending more time at home than ever. Further, the State's
4 economy is worse than ever, and these economic difficulties have
5 caused an increase in crime. The legislature believes that it
6 is imperative that residents be allowed to defend themselves
7 when in their homes, even using deadly force when necessary.
8 The legislature also believes that the use of deadly force is
9 less justified when the person using force is at the person's
10 place of work.

11 The purpose of this Act is to:

- 12 (1) Explicitly authorize a person to use protective force,
13 including deadly force, in the person's home under
14 certain circumstances;
- 15 (2) Repeal statutory language that permits a person to use
16 deadly force at the person's place of work in some
17 circumstances; and



1 (3) Prohibit the protective use of force if the person can
2 maintain safety by retreating, unless the person is in
3 the person's home; or by complying with certain
4 demands.

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]~~ the use of force is immediately
11 necessary for the purpose of protecting ~~[himself]~~ the actor
12 against the use of unlawful force by the other person on the
13 present occasion[-

14 ~~(2) The]; provided that the~~ use of deadly force is
15 justifiable under this section if the actor believes that deadly
16 force is necessary to protect ~~[himself]~~ the actor against death,
17 serious bodily injury, kidnapping, rape, or forcible sodomy.

18 ~~[(3) Except as otherwise provided in subsections (4) and~~
19 ~~(5) of this section, a person employing protective force may~~
20 ~~estimate the necessity thereof under the circumstances as he~~
21 ~~believes them to be when the force is used without retreating,~~



1 ~~surrendering possession, doing any other act which he has no~~
2 ~~legal duty to do, or abstaining from any lawful action.~~

3 ~~(4)]~~ (2) The use of force is not justifiable under this
4 section:

5 (a) To resist an arrest which the actor knows is being
6 made by a law enforcement officer, although the arrest
7 is unlawful; or

8 (b) To resist force used by the occupier or possessor of
9 property or by another person on ~~[his]~~ the occupier or
10 possessor's behalf, where the actor knows that the
11 person using the force is doing so under a claim of
12 right to protect the property, except that this
13 limitation shall not apply if:

14 (i) The actor is a public officer acting in the
15 performance of ~~[his]~~ the public officer's duties
16 or a person lawfully assisting ~~[him]~~ the public
17 officer therein or a person making or assisting
18 in a lawful arrest; or

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



1 ~~[(45)]~~ (3) The use of ~~[deadly]~~ force is not justifiable
2 under this section if:

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

6 (b) The actor knows that ~~[he]~~ the actor can avoid the
7 necessity of using ~~[such]~~ force with complete safety
8 by retreating or by surrendering possession of a thing
9 to a person asserting a claim of right thereto or by
10 complying with a demand that ~~[he]~~ the actor abstain
11 from any action ~~[which he]~~ that the actor has no duty
12 to take~~[-except]~~; provided that:

13 (i) The actor is not obliged to retreat from ~~[his]~~
14 the actor's dwelling ~~[or place of work]~~, and,
15 unless ~~[he]~~ the actor was the initial aggressor
16 ~~[or is assailed in his place of work by another~~
17 ~~person whose place of work the actor knows it to~~
18 ~~be;]~~, the actor's use of force, including deadly
19 force is justifiable; and

20 (ii) A public officer justified in using force in the
21 performance of ~~[his]~~ the public officer's duties,



1 or a person justified in using force in [~~his~~]
2 assistance of a public officer or a person
3 justified in using force in making an arrest or
4 preventing an escape, is not obliged to desist
5 from efforts to perform [~~his~~] the person's duty,
6 effect the arrest, or prevent the escape because
7 of resistance or threatened resistance by or on
8 behalf of the person against whom the action is
9 directed.

10 [~~(4)~~] (4) The justification afforded by this section
11 extends to the use of confinement as protective force only if
12 the actor takes all reasonable measures to terminate the
13 confinement as soon as [~~he~~] the actor knows that [~~he~~] the actor
14 [~~safely~~] can[~~-~~] safely do so, unless the person confined has
15 been arrested on a charge of crime."

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

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

SC

JAN 25 2022



H.B. NO. 2232

Report Title:

Self-Defense; Deadly Force; Duty to Retreat

Description:

Explicitly authorizes a person to use protective force, including deadly force, in the person's home under certain circumstances. Repeals statutory language that permits a person to use deadly force at the person's place of work in some circumstances. Prohibits the protective use of force if the person can maintain safety by retreating, unless the person is in the person's home; or by complying with certain demands.

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