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## A BILL FOR AN ACT

RELATING TO USE OF FORCE IN SELF-PROTECTION.

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

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

3           "**§703-304 Use of force in self-protection.** (1) Subject  
4 to the provisions of this section and ~~[of]~~ section 703-308, the  
5 use of force upon or toward another person is justifiable when  
6 the actor believes that ~~[such]~~ the use of force is immediately  
7 necessary for the purpose of protecting ~~[himself]~~ oneself  
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 protect ~~[himself]~~ oneself against death, serious bodily injury,  
13 kidnapping, rape, or forcible sodomy.

14           (3) Except as otherwise provided in subsections (4) and  
15 (5) ~~[of this section]~~, a person employing protective force may  
16 estimate the necessity thereof under the circumstances as ~~[he]~~  
17 the person believes them to be when the force is used without



1 retreating, surrendering possession, doing any other act [~~which~~  
2 ~~he~~] that the person has no legal duty to do, or abstaining from  
3 any lawful action.

4 (4) The use of force is not justifiable under this  
5 section[+] to resist:

6 (a) [~~To resist an~~] An arrest [~~which~~] that the actor knows  
7 is being made by a law enforcement officer, although  
8 the arrest is unlawful; or

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

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



1           (ii) ~~[The actor believes]~~ Believes that ~~[such]~~ the  
2                           force is necessary to protect ~~[himself]~~ oneself  
3                           against death or serious bodily injury.

4           (5) The use of deadly force is not justifiable under this  
5 section if[+]

6           ~~(a) The] the~~ actor, with the intent of causing death or  
7                           serious bodily injury, provoked the use of force  
8                           against ~~[himself]~~ oneself in the same encounter[+ or

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

15           ~~(i) The actor is not obliged to retreat from his~~  
16                          ~~dwelling or place of work, unless he was the~~  
17                          ~~initial aggressor or is assailed in his place of~~  
18                          ~~work by another person whose place of work the~~  
19                          ~~actor knows it to be; and].~~

20           ~~[+(ii)]~~ (6) A public officer justified in using force in  
21                          the performance of ~~[his]~~ the public officer's



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

11                [~~(6)~~] (7) The justification afforded by this section  
12 extends to the use of confinement as protective force only if  
13 the actor takes all reasonable measures to terminate the  
14 confinement as soon as [~~he~~] the actor knows that [~~he~~] the actor  
15 safely can, unless the person confined has been arrested on a  
16 charge of crime."

17                SECTION 2. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20                SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# H.B. NO. 1570

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

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'D.L.H.', written over a horizontal line.

JAN 16 2024



# H.B. NO. 1570

**Report Title:**

Self-Protection; Use of Force; Deadly Force

**Description:**

Clarifies when the use of deadly force is not justified.

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

