

JAN 22 2016

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1 SECTION 1. Section 703-307, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§703-307 Use of force in law enforcement. (1) Subject
4 to the provisions of this section and of section 703-310, the
5 use of force upon or toward the person of another is justifiable
6 when the actor is making or assisting in making an arrest and
7 the actor believes that [~~such~~] the force is immediately
8 necessary to effect a lawful arrest.

9 (2) The use of force is not justifiable under this section
10 unless:

11 (a) The actor makes known the purpose of the arrest or
12 believes that it is otherwise known by or cannot
13 reasonably be made known to the person to be arrested;
14 and

15 (b) When the arrest is made under a warrant, the warrant
16 is valid or believed by the actor to be valid.



(3) The use of deadly force is not justifiable under this section unless:

(a) The arrest is for a felony;

(b) The person effecting the arrest is authorized to act as a law enforcement officer or is assisting a person whom ~~[he]~~ the person believes to be authorized to act as a law enforcement officer;

(c) The actor believes that the force employed creates no substantial risk of injury to innocent persons; and

(d) The actor believes that:

(i) The crimes for which the arrest is made involved conduct including the use or threatened use of deadly force; or

(ii) There is a substantial risk that the person to be arrested will cause death or serious bodily injury if ~~[his]~~ the person's apprehension is delayed.

(4) The use of force to prevent the escape of an arrested person from custody is justifiable when the force could justifiably have been employed to effect the arrest under which the person is in custody, except that a guard or other person



1 authorized to act as a law enforcement officer is justified in
2 using force which [he] the guard or other authorized person
3 believes to be immediately necessary to prevent the escape from
4 a detention facility.

5 (5) A private person who is summoned by a law enforcement
6 officer to assist in effecting an unlawful arrest is justified
7 in using any force which [he] the person would be justified in
8 using if the arrest were lawful, provided that [he] the person
9 does not believe the arrest is unlawful. A private person who
10 assists another private person in effecting an unlawful arrest,
11 or who, not being summoned, assists a law enforcement officer in
12 effecting an unlawful arrest, is justified in using any force
13 which [he] the person would be justified in using if the arrest
14 were lawful, provided that [he] the person believes the arrest
15 is lawful, and the arrest would be lawful if the facts were as
16 [he] the person believes them to be.

17 (6) The use of force by a law enforcement officer that is
18 justifiable pursuant to this section shall not include:

19 (a) The use of a chokehold unless the use of deadly force
20 is justifiable pursuant to this section; or



1 (b) Any lesser contact with the throat or neck area of
2 another in order to prevent the destruction of
3 evidence by ingestion.

4 (7) As used in this section, "chokehold" means applying
5 any direct pressure to the throat, windpipe, or airway of
6 another with the intent to reduce or prevent the intake of air,
7 but does not include any holding involving contact with the neck
8 that is not intended to reduce the intake of air."

9 SECTION 2. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.
15

INTRODUCED BY: ~~SEN. JIM HANCOCK~~ SEN. JIM HANCOCK

Sen. J. Baker

John G. ...



S.B. NO. 2237

Report Title:

Law Enforcement; Use of Force; Chokeholds; Prohibited Unless
Deadly Force Justifiable

Description:

Prohibits law enforcement officers from using chokeholds unless
the use of deadly force is justifiable.

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not legislation or evidence of legislative intent.*

