
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. The legislature finds that due to the
2 coronavirus disease 2019 (COVID-19) pandemic, residents are
3 spending more time at home than they have in the past. The
4 legislature also finds that the State's worsening economy and
5 the economic hardships faced by some of Hawaii's residents have
6 led to an increase in crime. The legislature believes that it
7 is imperative that residents be allowed to defend themselves
8 when in their homes, even using deadly force when necessary;
9 however, the legislature also believes that the use of deadly
10 force is less justified when the person using deadly force is at
11 their place of work.

12 The purpose of this Act is to:

13 (1) Establish the circumstances under which a person using
14 deadly force has no duty to retreat and has the right
15 to stand their ground; and



1 (2) Repeal statutory language that permits a person to use
2 deadly force at a person's place of work in some
3 circumstances.

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

6 "**§703-304 Use of force in self-protection.** (1) Subject
7 to the provisions of this section and of section 703-308, the
8 use of force upon or toward another person is justifiable when
9 the actor believes that [~~such~~] the use of force is immediately
10 necessary for the purpose of protecting [~~himself~~] the actor
11 against the use of unlawful force by the other person on the
12 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. Subject to the
17 requirements of this section, an actor who uses deadly force in
18 accordance with this subsection does not have a duty to retreat
19 and has the right to stand the actor's ground if the actor using
20 deadly force is not engaged in criminal activity and is in a
21 place where the actor has a right to be.



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

8 (4) The use of force is not justifiable under this
9 section:

10 (a) To resist an arrest which the actor knows is being
11 made by a law enforcement officer, although the arrest
12 is unlawful; or

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

19 (i) The actor is a public officer acting in the
20 performance of [~~his~~] the public officer's duties
21 or a person lawfully assisting [~~him~~] the public



1 officer therein or a person making or assisting
2 in a lawful arrest; or

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

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

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

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

18 (i) The actor is not obliged to retreat from [~~his~~]
19 the actor's dwelling [~~or place of work~~], unless
20 [~~he~~] the actor was the initial aggressor [~~or is~~
21 ~~assailed in his place of work by another person~~



1 ~~whose place of work the actor knows it to be];~~
2 and
3 (ii) A public officer justified in using force in the
4 performance of [~~his~~] the public officer's duties,
5 or a person justified in using force in [~~his~~]
6 assistance or a person justified in using force
7 in making an arrest or preventing an escape, is
8 not obliged to desist from efforts to perform
9 [~~his~~] the person's duty, effect the arrest, or
10 prevent the escape because of resistance or
11 threatened resistance by or on behalf of the
12 person against whom the action is directed.

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

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



H.B. NO. 534

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.
4

INTRODUCED BY:



JAN 22 2021



H.B. NO. 534

Report Title:

Self-Defense; Deadly Force; Duty to Retreat

Description:

Amends the law relating to the use of deadly force in self-defense to establish the circumstances where a person using deadly force has no duty to retreat and has the right to stand the person's ground. Repeals statutory language that permits an actor to use deadly force at the actor's place of work in some circumstances.

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