
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 an increase in crime. The legislature believes that
6 it is imperative that residents be allowed to defend themselves
7 when in their home, even using deadly force when necessary. The
8 legislature also believes that the use of deadly force is less
9 justified when the person using force is at the person's place
10 at work.

11 The purpose of this Act is to:

- 12 (1) Establish the circumstances under which a person using
13 deadly force has no duty to retreat and has the right
14 to stand the person's ground; and
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.



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
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~~] the actor
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~~] the actor against death, serious bodily
13 injury, kidnapping, rape, or forcible sodomy. Subject to the
14 requirements of this section, an actor who uses deadly force in
15 accordance with this subsection does not have a duty to retreat
16 and has the right to stand the actor's ground if the actor using
17 deadly force is not engaged in criminal activity and is in a
18 place where the actor has a right to be.

19 (3) Except as otherwise provided in subsections (4) and
20 (5) of this section, a person employing protective force may
21 estimate the necessity thereof under the circumstances as [~~he~~]

1 the person believes them to be when the force is used without
2 retreating, surrendering possession, doing any other act which
3 [~~he~~] the person has no legal duty to do, or abstaining from any
4 lawful action.

5 (4) The use of force is not justifiable under this
6 section:

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

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

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



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

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

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

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

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

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

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

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



H.B. NO. 84

Report Title:

Self-Defense; Deadly Force; Duty to Retreat; "Stand Your Ground"
Law

Description:

Amends the law relating to the use of deadly force to establish under which circumstances 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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