
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 force is immediately necessary for
7 the purpose of protecting [~~himself~~] oneself against the use of
8 unlawful force by the other person on the present occasion.

9 (2) The use of deadly force is justifiable under this
10 section if the actor believes that deadly force is necessary to
11 protect [~~himself~~] oneself against death, serious bodily injury,
12 kidnapping, rape, or forcible sodomy.

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



1 ~~[he]~~ the person has no legal duty to do, or abstaining from any
2 lawful action.

3 (4) 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 person's
10 behalf, where the actor knows that the person using
11 the force is doing so under a claim of right to
12 protect the property, except that this limitation
13 shall not apply if:

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

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



1 (5) The use of deadly force is not justifiable under this
2 section if[÷

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

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

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

17 ~~(ii)]~~ .

18 (6) A public officer justified in using force in the
19 performance of ~~[his]~~ the officer's duties, or a person justified
20 in using force in ~~[his]~~ the person's assistance or a person
21 justified in using force in making an arrest or preventing an



1 escape, is not obliged to desist from efforts to perform ~~[his]~~
2 the person's duty, effect the arrest, or prevent the escape
3 because of resistance or threatened resistance by or on behalf
4 of the person against whom the action is directed.

5 ~~[(+6)]~~ (7) The justification afforded by this section
6 extends to the use of confinement as protective force only if
7 the actor takes all reasonable measures to terminate the
8 confinement as soon as ~~[he]~~ the actor knows that ~~[he]~~ the actor
9 safely can, unless the person confined has been arrested on a
10 charge of crime."

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

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on January 1, 2222.



H.B. NO. 2464 H.D. 1

Report Title:

Self-Protection; Use of Force; Deadly Force

Description:

Clarifies when the use of deadly force is not justified.

Effective 1/1/2222. (HD1)

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