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## A BILL FOR AN ACT

RELATING TO SELF-DEFENSE.

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

1           SECTION 1. The legislature finds that, as the rate of  
2 violent crimes increases throughout the State, residents of the  
3 State are becoming increasingly fearful for their safety. The  
4 recent surge of armed robberies, violent attacks, shootings, and  
5 murders in the State has prompted residents to begin considering  
6 ways to better protect themselves, their property, and other  
7 persons against these unlawful acts. The legislature notes that  
8 Hawaii law does not provide a full range of protections to law-  
9 abiding residents in situations in which real harm may occur.

10           The legislature also finds that twenty-seven states have  
11 enacted robust self-protection laws, often described as "Stand  
12 Your Ground" laws, to allow law-abiding citizens to protect  
13 themselves, their property, and other persons without fear of  
14 conviction. The legislature believes that the goal of all laws  
15 should be to empower law-abiding citizens, not the perpetrators.



1           Accordingly, the purpose of this Act is to clarify when  
2 force, including deadly force, may be used to protect oneself,  
3 one's property, or another person.

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]~~ this force is immediately  
10 necessary ~~[for the purpose of protecting himself]~~ to defend  
11 oneself, one's property, or another person against the use of  
12 unlawful force by the other person on the 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 against death, serious bodily injury,~~  
16 ~~kidnapping, rape, or forcible sodomy.]~~ defend oneself, one's  
17 legally occupied dwelling or motor vehicle, or another person  
18 against a person who intends or endeavors to use unlawful force  
19 or against a person who intends and endeavors to enter the  
20 legally occupied dwelling or motor vehicle of another for the  
21 purpose of assaulting or offering personal violence to any



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1 person residing or being therein. There is no duty for the  
2 victim to retreat under this subsection if:

3       (a) The actor is occupying the premises of a place that  
4       the actor has a legal right to be, including the  
5       person's place of business; and

6       (b) The actor is not engaged in an unlawful activity.

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

14       (4) The use of force is not justifiable under this  
15 section[+]

16       ~~(a) To resist an arrest which the actor knows is being~~  
17       ~~made by a law enforcement officer, although the arrest~~  
18       ~~is unlawful; or~~

19       ~~(b) To resist force used by the occupier or possessor of~~  
20       ~~property or by another person on his behalf, where the~~  
21       ~~actor knows that the person using the force is doing~~



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1           ~~so under a claim of right to protect the property,~~  
2           ~~except that this limitation shall not apply if:~~

3           ~~(i) The actor is a public officer acting in the~~  
4           ~~performance of his duties or a person lawfully~~  
5           ~~assisting him therein or a person making or~~  
6           ~~assisting in a lawful arrest; or~~

7           ~~(ii) The actor believes that such force is necessary~~  
8           ~~to protect himself against death or serious~~  
9           ~~bodily injury.~~

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

12          ~~(a) The actor, with the intent of causing death or serious~~  
13          ~~bodily injury, provoked the use of force against~~  
14          ~~himself in the same encounter; or~~

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



1           ~~(i) The actor is not obliged to retreat from his~~  
2           ~~dwelling or place of work, unless he was the~~  
3           ~~initial aggressor or is assailed in his place of~~  
4           ~~work by another person whose place of work the~~  
5           ~~actor knows it to be, and~~  
6           ~~(ii) A public officer justified in using force in the~~  
7           ~~performance of his duties, or a person justified~~  
8           ~~in using force in his assistance or a person~~  
9           ~~justified in using force in making an arrest or~~  
10           ~~preventing an escape, is not obliged to desist~~  
11           ~~from efforts to perform his duty, effect the~~  
12           ~~arrest, or prevent the escape because of~~  
13           ~~resistance or threatened resistance by or on~~  
14           ~~behalf of the person against whom the action is~~  
15           ~~directed.] to resist a law enforcement officer or~~  
16           ~~a private person assisting a law enforcement~~  
17           ~~officer acting in the performance of the officer~~  
18           ~~or private person assisting a law enforcement~~  
19           ~~officer's official duties and the officer or~~  
20           ~~private person assisting a law enforcement~~  
21           ~~officer identify themselves in accordance with~~



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1                   applicable law or the actor using force knows or  
 2                   reasonably should have known that the other  
 3                   person was a law enforcement officer or a private  
 4                   person assisting a law enforcement officer.

5            [~~(6)~~] (5)   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 is able to safely [ear,] do so, unless the person confined has  
 10 been arrested on a charge of crime.

11           (6) An actor who uses force, including deadly force, as  
 12 justified and permitted under subsections (1) and (2) is immune  
 13 from criminal prosecution and civil action for the use of the  
 14 force, unless the force was determined to be unlawful."

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

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

18

INTRODUCED BY:   
 JAN 25 2021



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**Report Title:**

Self-Protection; Public Safety; Lethal Force

**Description:**

Clarifies when force, including deadly force, may be used to protect oneself, one's property, or another person.

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

