
A BILL FOR AN ACT

RELATING TO SAFETY AT HOME.

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

1 SECTION 1. The legislature finds that the people of Hawaii
2 have a fundamental right to be safe in their homes. However,
3 the recent rise in violent crimes is threatening the public's
4 sense of security. According to the Honolulu Police
5 Department's 2021 annual report, Oahu saw a rise in violent and
6 property-related crimes, including murder, robbery, aggravated
7 assault, burglary, larceny-theft, and motor vehicle theft. The
8 legislature further finds it is imperative that residents be
9 allowed to defend themselves when in their home, even when using
10 deadly force if necessary, but that the use of deadly force is
11 less justified when the person using force is at the person's
12 place at work.

13 The purpose of this Act is to:

14 (1) Clarify that a person who uses deadly force to protect
15 against death, serious bodily injury, kidnapping,
16 rape, or forcible sodomy does not have a duty to
17 retreat if the person is in their dwelling or on their



1 property, unless the person is the initial aggressor;
2 and

3 (2) Repeal statutory language that permits a person to use
4 deadly force at the person's place of work.

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

7 **"§703-304 Use of force in self-protection.** (1) Subject
8 to the provisions of this section and ~~[of]~~ section 703-308, the
9 use of force upon or toward another person is justifiable when
10 the actor believes that ~~[such]~~ the use of force is immediately
11 necessary for the purpose of protecting ~~[himself]~~ oneself
12 against the use of unlawful force by the other person on the
13 present occasion.

14 (2) The use of deadly force is justifiable under this
15 section if the actor believes that deadly force is necessary to
16 protect ~~[himself]~~ oneself against death, serious bodily injury,
17 kidnapping, rape, or forcible sodomy. An actor who uses deadly
18 force in accordance with this subsection shall not have a duty
19 to retreat under subsection (5) if the actor using deadly force
20 is in the actor's dwelling or on the actor's property, unless
21 the actor was the initial aggressor.



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

8 (4) The use of force is not justifiable under this
9 section[+] to resist:

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

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

20 (i) [~~The actor is~~] Is a public officer acting in the
21 performance of [~~his~~] the public officer's duties



1 ~~[or]~~, a person lawfully assisting ~~[him]~~ the
2 public officer therein, or a person making or
3 assisting in a lawful arrest; or
4 (ii) ~~[The actor believes]~~ Believes that ~~[such]~~ the
5 force is necessary to protect ~~[himself]~~ oneself
6 against death ~~[or]~~, serious bodily injury,
7 kidnapping, rape, or forcible sodomy.
8 (5) ~~[The]~~ Except as otherwise provided in subsection (2),
9 the use of deadly force is not justifiable under this section
10 if ~~[+]~~ the actor:
11 (a) ~~[The actor, with]~~ With the intent of causing death or
12 serious bodily injury~~[+]~~ or committing kidnapping,
13 rape, or forcible sodomy, provoked the use of force
14 against ~~[himself]~~ oneself in the same encounter; or
15 (b) ~~[The actor knows]~~ Knows that ~~[he]~~ the actor can avoid
16 the necessity of using ~~[such]~~ deadly force with
17 complete safety by retreating ~~[or by]~~, surrendering
18 possession of a thing to a person asserting a claim of
19 right thereto, or ~~[by]~~ complying with a demand that
20 ~~[he]~~ the actor abstain from any action ~~[which he]~~ that



1 the actor has no duty to take~~[, except]~~; provided
2 that[+]

3 ~~(i) The actor is not obliged to retreat from his~~
4 ~~dwelling or place of work, unless he was the~~
5 ~~initial aggressor or is assailed in his place of~~
6 ~~work by another person whose place of work the~~
7 ~~actor knows it to be; and~~

8 (ii) A] a public officer justified in using force in
9 the performance of [his] the public officer's
10 duties, or a person justified in using force in
11 [his] assistance or [a person justified in using
12 force] in making an arrest or preventing an
13 escape, is not obliged to desist from efforts to
14 perform [his] the person's duty, effect the
15 arrest, or prevent the escape because of
16 resistance or threatened resistance by or on
17 behalf of the person against whom the action is
18 directed.

19 (6) The justification afforded by this section extends to
20 the use of confinement as protective force only if the actor
21 takes all reasonable measures to terminate the confinement as



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1 soon as [~~he~~] the actor knows that [~~he~~] the actor safely can,
2 unless the person confined has been arrested on a charge of
3 crime."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: _____



JAN 17 2023



H.B. NO. 86

Report Title:

Self-Defense; Deadly Force; Duty to Retreat; Safe At Home Law

Description:

Clarifies that a person who uses deadly force in self-defense does not have a duty to retreat if they are in their dwelling or on their property, unless they are the initial aggressor. Repeals statutory language that permits a person to use deadly force at their place of work.

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