
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 there has been an
2 alarming uptick in violent crimes in the city and county of
3 Honolulu in the past year. According to data from the Honolulu
4 Police Department, the number of murders, aggravated assaults,
5 sex assaults and robberies rose by nearly six per cent in the
6 first seven months of 2022 compared to the same period one year
7 earlier. Some districts in the county have been hit
8 significantly harder than others, such as Waikiki, where
9 aggravated assaults jumped forty per cent from the previous year
10 compared to 3.4 per cent across the board.

11 The legislature finds that due to the troubling state of
12 public safety in Hawaii currently, it is more imperative than
13 ever to grant residents the right to defend themselves in
14 situations of grave danger, even using deadly force when
15 necessary.

16 The purpose of this Act is to clarify when the use of
17 deadly force is not justified.



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 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
18 he has no legal duty to do, or abstaining from any lawful
19 action.

20 (4) The use of force is not justifiable under this
21 section:



1 (a) To resist an arrest which the actor knows is being
2 made by a law enforcement officer, although the arrest
3 is unlawful; or

4 (b) To resist force used by the occupier or possessor of
5 property or by another person on [~~his~~] the person's
6 behalf, where the actor knows that the person using
7 the force is doing so under a claim of right to
8 protect the property, except that this limitation
9 shall not apply if:

10 (i) The actor is a public officer acting in the
11 performance of [~~his~~] the officer's duties or a
12 person lawfully assisting him therein or a person
13 making or assisting in a lawful arrest; or

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

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

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



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

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

12 ~~(ii)].~~

13 (6) A public officer justified in using force in the
14 performance of [his] the officer's duties, or a
15 person justified in using force in [his] the
16 person's assistance or a person justified in
17 using force in making an arrest or preventing an
18 escape, is not obliged to desist from efforts to
19 perform [his] the person's duty, effect the
20 arrest, or prevent the escape because of
21 resistance or threatened resistance by or on



1 behalf of the person against whom the action is
2 directed.

3 ~~[-6-]~~ (7) The justification afforded by this section
4 extends to the use of confinement as protective force only if
5 the actor takes all reasonable measures to terminate the
6 confinement as soon as ~~[he]~~ the actor knows that ~~[he]~~ the actor
7 safely can, unless the person confined has been arrested on a
8 charge of crime."

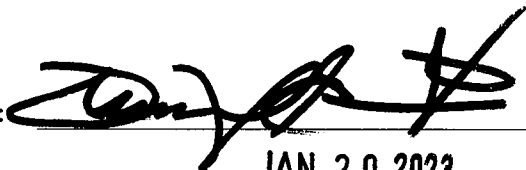
9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon approval.

15

INTRODUCED BY:



JAN 20 2023



H.B. NO. 636

Report Title:

Self-Protection; Use of Force; Deadly Force

Description:

Clarifies when the use of deadly force is not justified.

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

HB HMIA 2023-1-14

