
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 increase in violent crimes in Hawaii in the past year.
3 According to data from the Federal Bureau of Investigation, the
4 rate of violent crime offenses rose by nearly ten per cent
5 between 2014 and 2022. Some districts have been hit
6 significantly harder than others, such as Leeward Oahu, where
7 violence with weapon offenses jumped forty-two per cent from the
8 previous year.

9 The legislature finds that due to rampant violent crimes in
10 Hawaii currently, it is more imperative than ever to grant
11 residents the right to defend themselves in situations of grave
12 danger, even using deadly force when necessary.

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

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



H.B. NO. 1717

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

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

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

18 (4) The use of force is not justifiable under this
19 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~~



H.B. NO. 1717

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 person justified
15 in using force in [~~his~~] the person's assistance or a person
16 justified in using force in making an arrest or preventing an
17 escape, is not obliged to desist from efforts to perform [~~his~~]
18 the person's duty, effect the arrest, or prevent the escape
19 because of resistance or threatened resistance by or on behalf
20 of the person against whom the action is directed.



H.B. NO. 1717

1 ~~[(6)]~~ (7) The justification afforded by this section
 2 extends to the use of confinement as protective force only if
 3 the actor takes all reasonable measures to terminate the
 4 confinement as soon as ~~[he]~~ the actor knows that ~~[he]~~ the actor
 5 safely can, unless the person confined has been arrested on a
 6 charge of crime."

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

10 SECTION 4. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

~~_____~~

JAN 18 2024



H.B. NO. 1717

Report Title:

Minority Caucus Package; Self-Protection; Use of Force

Description:

Clarifies when the use of deadly force is not justified.

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