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# A BILL FOR AN ACT

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RELATING TO SELF DEFENSE.

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

1       SECTION 1. The legislature finds that Hawaii residents  
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 has experienced a rise in  
6       violent and property-related crimes, including murder, robbery,  
7       aggravated assault, burglary, larceny-theft, and motor vehicle  
8       theft.

9       Although residents have a right to self-defense when in  
10      their homes, including the use of deadly force if necessary,  
11      there is no right to use deadly force at the person's place of  
12      work.

13      Accordingly, 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



1           their property, unless the person is the initial  
2           aggressor; 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~~[r]~~,  
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~~[r]~~ 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 can]~~ the actor may  
16              avoid 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  
21              ~~[÷]~~



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

17          (6) The justification afforded by this section [~~extends~~]  
18          shall only extend to the use of confinement as protective force  
19          [~~only~~] if the actor takes all reasonable measures to terminate  
20          the confinement as soon as [he] the actor knows that [he] the



1 actor safely can, unless the person confined has been arrested  
2 on a charge of crime."

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

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

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

9

INTRODUCED BY:



JAN 21 2025



# H.B. NO. 851

**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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