

JAN 25 2006

A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 SECTION 1. Throughout history victims of emergencies or
2 disasters have often become victimized a second time by
3 opportunists who engage in civil unrest, looting, and other
4 crime. Most recently, the world had a front row seat to wide
5 spread criminal activity and looting following Hurricane
6 Katrina.

7 The legislature recognizes that if strong measures to
8 control law and order are not in place before a disaster or
9 emergency, civil unrest and looting and other crimes are likely
10 to increase after a disaster or emergency. The legislature also
11 recognizes that preventive measures require fewer resources than
12 that required to restore and rebuild.

13 The legislature also finds that when resources are needed
14 to restore law and order, emergency response aid to victims is
15 hampered and delayed, leaving victims at an increased risk of
16 bodily injury or death.

17 The legislature finds that every effort should be made to
18 protect the health and safety of the public by preventing civil

1 unrest and looting and other crimes before they occur and that
2 severe penalties will deter the majority of these opportunistic
3 crimes.

4 The purpose of this Act is to significantly increase the
5 criminal penalties for the commission of certain crimes during a
6 time of civil defense emergency proclaimed by the governor under
7 chapter 128, Hawaii Revised Statutes.

8 SECTION 2. Chapter 707, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§707- Assault against a civil defense emergency worker.

12 (1) A person commits the offense of assault against a civil
13 defense emergency worker if the person, during the time of a
14 civil defense emergency proclaimed by the governor under chapter
15 128, within the area covered by such civil defense emergency:

16 (a) Intentionally, knowingly, or recklessly causes serious
17 or substantial bodily injury to a civil defense
18 emergency worker; or

19 (b) Intentionally, knowingly, or recklessly causes bodily
20 injury to a civil defense emergency worker with a
21 dangerous instrument.

1 (2) Assault against a civil defense emergency worker is a
2 class A felony."

3 SECTION 3. Chapter 708, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§708- Burglary of a dwelling during a civil defense
7 emergency. (1) A person commits the offense of burglary of a
8 dwelling during a civil defense emergency if the person
9 intentionally enters or remains unlawfully in a dwelling with
10 intent to commit therein a crime against a person or against
11 property rights during the time of a civil defense emergency
12 proclaimed by the governor under chapter 128, within the area
13 covered by such civil defense emergency.

14 (2) Burglary of a dwelling during a civil defense
15 emergency is a class A felony."

16 SECTION 4. Chapter 708, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§708- Burglary of a building during a civil defense
20 emergency. (1) A person commits the offense of burglary of a
21 building during a civil defense emergency if the person
22 intentionally enters or remains unlawfully in a building other

1 than a dwelling with intent to commit therein a crime against a
2 person or against property rights during the time of a civil
3 defense emergency proclaimed by the governor under chapter 128,
4 within the area covered by such civil defense emergency.

5 (2) Burglary of a building during a civil defense
6 emergency is a class B felony."

7 SECTION 5. Section 707-700, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Civil defense emergency worker" means any:

11 (1) Law enforcement officer, including but not limited to
12 any police officer, sheriff, public safety law
13 enforcement officer, parole or probation officer,
14 correctional officer, or any other officer of any
15 county, state, federal, or military agency authorized
16 to exercise law enforcement or police powers;

17 (2) Firefighter, emergency medical services personnel,
18 emergency medical technician, ambulance crewmember, or
19 any other emergency response personnel;

20 (3) Member of the Hawaii national guard on any duty or
21 service done under or in pursuance of an order or call

1 of the governor or the President of the United States
2 or any proper authority;

3 (4) Member of the United States army, air force, navy,
4 marines, or coast guard on any duty or service done
5 under or in pursuance of an order or call of the
6 President of the United States or any proper
7 authority;

8 (5) Member of the national guard from any other state
9 ordered into service by any proper authority; or

10 (6) Person engaged in civil defense functions as
11 authorized by the director or vice director of civil
12 defense who are engaged in civil defense functions
13 under chapter 128."

14 SECTION 6. Section 708-820, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§708-820 Criminal property damage in the first degree.**

17 (1) A person commits the offense of criminal property damage in
18 the first degree if:

19 (a) The person intentionally or knowingly damages property
20 and thereby recklessly places another person in danger
21 of death or bodily injury; [~~or~~]

22 (b) The person intentionally or knowingly damages the

1 property of another, without the other's consent, in
2 an amount exceeding \$20,000[-]; or

3 (c) The person intentionally or knowingly damages the
4 property of another during the time of a civil defense
5 emergency proclaimed by the governor under chapter
6 128, within the area covered by such civil defense
7 emergency.

8 (2) Criminal property damage in the first degree is a
9 class B felony."

10 SECTION 7. Section 708-830.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§708-830.5 Theft in the first degree.** (1) A person
13 commits the offense of theft in the first degree if the person
14 commits theft:

15 (a) Of property or services, the value of which exceeds
16 \$20,000;

17 (b) Of a firearm; [~~or~~]

18 (c) Of dynamite or other explosive[-]; or

19 (d) Of property or services during the time of a civil
20 defense emergency proclaimed by the governor under
21 chapter 128, within the area covered by such civil
22 defense emergency, the value of which exceeds \$300.

1 (2) Theft in the first degree is a class B felony."

2 SECTION 8. Section 708-840, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§708-840 Robbery in the first degree.** (1) A person
5 commits the offense of robbery in the first degree if, in the
6 course of committing theft:

7 (a) The person attempts to kill another, or intentionally
8 or knowingly inflicts or attempts to inflict serious
9 bodily injury upon another; [~~or~~]

10 (b) The person is armed with a dangerous instrument and:

11 (i) The person uses force against the person of
12 anyone present with intent to overcome that
13 person's physical resistance or physical power of
14 resistance; or

15 (ii) The person threatens the imminent use of force
16 against the person of anyone who is present with
17 intent to compel acquiescence to the taking of or
18 escaping with the property[~~or~~];

19 (c) The person uses force against the person of anyone
20 present with the intent to overcome that person's
21 physical resistance or physical power of resistance
22 during the time of a civil defense emergency

JUSTIFICATION SHEET

SB. NO. 2306

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To significantly increase the criminal penalties for the commission of certain crimes during a time of civil defense emergency proclaimed by the Governor under chapter 128, Hawaii Revised Statutes.

MEANS: Add new sections to chapters 707 and 708 and amend sections 707-700, 708-820, 708-830.5, and 708-840, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Throughout history, victims of emergencies or disasters have often become victimized a second time by opportunists who engage in civil unrest and looting, and other crimes. Most recently, the world and nation bore witness to widespread criminal activity and looting following Hurricane Katrina. If strong measures to control law and order are not in place before a disaster or emergency occurs, looting and other crimes are likely to increase.

Severe penalties may deter the majority of these opportunistic crimes. When resources are needed to restore law and order, emergency response aid to victims may be hampered and delayed, leaving victims at an increased risk of bodily injury or death.

Passage of this bill would make any and all crimes against law enforcement officials, active military, National Guard, and civil defense personnel carrying out their duties during a civil defense emergency, a class A felony. This bill will also make any burglary of a dwelling during a civil defense period a class A felony and burglary of a building and criminal property damage a class B felony.

Impact on the public: Deterrence of looting and other crimes would release more resources for disaster assistance and recovery operations rather than the restoration of law and order (security operations).

Impact on the department and other agencies: Bill would provide additional protection for law enforcement officials of the State and counties performing their duties during a civil defense emergency or disaster.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: All state and county departments and agencies.

EFFECTIVE DATE: Upon approval.