



GOV. MSG. NO. 1291

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 5, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

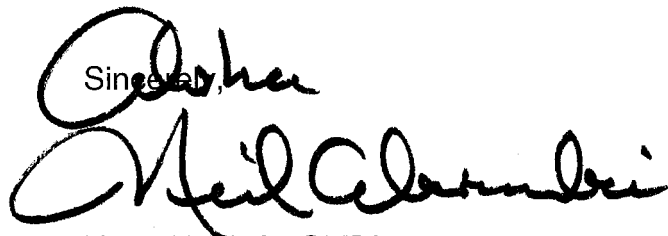
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 5, 2011, the following bill was signed into law:

SB1025 SD1 HD1 CD1

RELATING TO THE PENAL CODE.
Act 187 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUL 5 2011

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII.

ACT 187
S.B. NO. 1025
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 PART I

2 SECTION 1. Section 707-711, Hawaii Revised Statutes, is
3 amended by amending subsection (1) to read as follows:

4 "(1) A person commits the offense of assault in the second
5 degree if:

- 6 (a) The person intentionally or knowingly causes
7 substantial bodily injury to another;
- 8 (b) The person recklessly causes serious or substantial
9 bodily injury to another;
- 10 (c) The person intentionally or knowingly causes bodily
11 injury to a correctional worker, as defined in section
12 710-1031(2), who is engaged in the performance of duty
13 or who is within a correctional facility;
- 14 (d) The person intentionally or knowingly causes bodily
15 injury to another with a dangerous instrument;
- 16 (e) The person intentionally or knowingly causes bodily
17 injury to an educational worker who is engaged in the
18 performance of duty or who is within an educational



1 facility. For the purposes of this paragraph,
2 "educational worker" means: any administrator,
3 specialist, counselor, teacher, or employee of the
4 department of education or an employee of a charter
5 school; a person who is a volunteer, as defined in
6 section 90-1, in a school program, activity, or
7 function that is established, sanctioned, or approved
8 by the department of education; or a person hired by
9 the department of education on a contractual basis and
10 engaged in carrying out an educational function;

11 (f) The person intentionally or knowingly causes bodily
12 injury to any emergency medical services provider who
13 is engaged in the performance of duty. For the
14 purposes of this paragraph, "emergency medical
15 services provider" means emergency medical services
16 personnel, as defined in section 321-222, and
17 physicians, physician's assistants, nurses, nurse
18 practitioners, certified registered nurse
19 anesthetists, respiratory therapists, laboratory
20 technicians, radiology technicians, and social
21 workers, providing services in the emergency room of a
22 hospital; [øx]



- 1 (g) The person intentionally or knowingly causes bodily
2 injury to a person employed at a state-operated or
3 -contracted mental health facility. For the purposes
4 of this paragraph, "a person employed at a state-
5 operated or -contracted mental health facility"
6 includes health care professionals as defined in
7 section 451D-2, administrators, orderlies, security
8 personnel, volunteers, and any other person who is
9 engaged in the performance of a duty at a state-
10 operated or -contracted mental health facility[-]; or
- 11 (h) The person intentionally or knowingly causes bodily
12 injury to any firefighter or water safety officer who
13 is engaged in the performance of duty. For the
14 purposes of this paragraph, "firefighter" has the same
15 meaning as in section 710-1012 and "water safety
16 officer" means any public servant employed by the
17 United States, the State, or any county as a lifeguard
18 or person authorized to conduct water rescue or ocean
19 safety functions."

20

PART II



1 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§708- Unauthorized entry in a dwelling in the first
5 degree. (1) A person commits the offense of unauthorized entry
6 in a dwelling in the first degree if the person intentionally or
7 knowingly enters unlawfully into a dwelling and another person
8 was, at the time of the entry, lawfully present in the dwelling
9 who:

- 10 (a) Was sixty-two years of age or older;
- 11 (b) Was an incapacitated person; or
- 12 (c) Had a developmental disability.

13 (2) For the purposes of this section:

14 "Developmental disability" shall have the same meaning as
15 in section 333E-2.

16 "Incapacitated person" shall have the same meaning as in
17 section 560:5-102.

18 (3) Unauthorized entry in a dwelling in the first degree
19 is a class B felony.

20 (4) It shall be an affirmative defense that reduces this
21 offense to a misdemeanor that, at the time of the unlawful
22 entry:



- 1 (a) There was a social gathering of invited guests at the
2 dwelling the defendant entered;
- 3 (b) The defendant intended to join the social gathering as
4 an invited guest; and
- 5 (c) The defendant had no intent to commit any unlawful act
6 other than the entry."

7 SECTION 3. Section 708-812.6, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§708-812.6[+] Unauthorized entry in a dwelling[-] in
10 the second degree. (1) A person commits the offense of
11 unauthorized entry in a dwelling in the second degree if the
12 person intentionally or knowingly enters unlawfully into a
13 dwelling [~~with reckless disregard of the risk that another~~
14 ~~person was lawfully present in the dwelling,~~] and another person
15 was lawfully present in the dwelling.

16 (2) Unauthorized entry in a dwelling in the second degree
17 is a class C felony.

18 (3) It [~~is~~] shall be an affirmative defense that reduces
19 this offense to a misdemeanor that, at the time of the unlawful
20 entry:

21 (a) There was a social gathering of invited guests at the
22 dwelling the defendant entered;



1 (b) The defendant intended to join the social gathering;
2 and

3 (c) The defendant had no intent to commit any unlawful act
4 other than the entry."

5 PART III

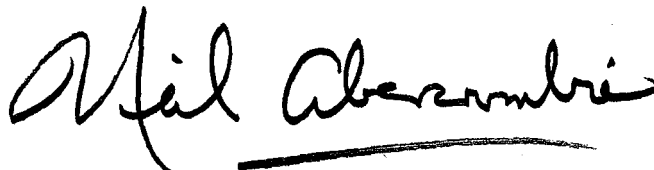
6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 5. If any provision of this Act, or the
10 application thereof to any person or circumstance is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act, which can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

APPROVED this 5 day of JUL, 2011



GOVERNOR OF THE STATE OF HAWAII