

---

---

# A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST THE PERSON.

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

1           SECTION 1. Chapter 707, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§707- Excessive discipline of a minor. (1) A person  
5 commits the offense of excessive discipline of a minor under the  
6 age of eighteen years if the person causes bodily injury,  
7 serious bodily injury, or substantial bodily injury in the  
8 course of disciplining a minor by the use of a belt, ruler,  
9 clothes hanger, stick, twig, tube, pipe, shoe, slipper, or any  
10 foreign object that causes welts, cuts, bruises, or damage to  
11 the skin or the body.

12           (2) Excessive discipline of a minor shall be subject to a  
13 penalty equivalent to that of:

14           (a) Assault in the first degree if a person knowingly or  
15 intentionally causes serious bodily injury to a minor;

16           (b) Assault in the second degree if a person recklessly  
17 causes substantial bodily injury to a minor; and



1        (c) Assault in the third degree if a person negligently  
2                    causes substantial bodily injury to a minor.

3        (3) For purposes of this section, "discipline" means to  
4 use force to punish or to enforce obedience."

5        SECTION 2. Section 703-309, Hawaii Revised Statutes, is  
6 amended to read as follows:

7        **"§703-309 Use of force by persons with special**  
8 **responsibility for care, discipline, or safety of others.** The  
9 use of force upon or toward the person of another is justifiable  
10 under the following circumstances:

11        ~~[(1) The actor is the parent or guardian or other person~~  
12                    ~~similarly responsible for the general care and~~  
13                    ~~supervision of a minor, or a person acting at the~~  
14                    ~~request of the parent, guardian, or other responsible~~  
15                    ~~person, and:~~

16                    ~~(a) The force is employed with due regard for the age~~  
17                    ~~and size of the minor and is reasonably related~~  
18                    ~~to the purpose of safeguarding or promoting the~~  
19                    ~~welfare of the minor, including the prevention or~~  
20                    ~~punishment of the minor's misconduct; and~~

21                    ~~(b) The force used is not designed to cause or known~~  
22                    ~~to create a risk of causing substantial bodily~~



1 ~~injury, disfigurement, extreme pain or mental~~  
2 ~~distress, or neurological damage.~~

3 ~~(2)]~~ (1) The actor is a principal, the principal's agent,  
4 a teacher, or a person otherwise entrusted with the  
5 care or supervision for a special purpose of a minor,  
6 and:

7 (a) The actor believes that the force used is  
8 necessary to further that special purpose,  
9 including maintenance of reasonable discipline in  
10 a school, class, other group, or at activities  
11 supervised by the department of education held on  
12 or off school property and that the use of force  
13 is consistent with the welfare of the minor; and

14 (b) The degree of force, if it had been used by the  
15 parent or guardian of the minor, would not be  
16 unjustifiable under paragraph (1) (b).

17 ~~[(3)]~~ (2) The actor is the guardian or other person  
18 similarly responsible for the general care and  
19 supervision of an incompetent person, and:

20 (a) The force is employed with due regard for the age  
21 and size of the incompetent person and is  
22 reasonably related to the purpose of safeguarding



1 or promoting the welfare of the incompetent  
2 person, including the prevention of the  
3 incompetent person's misconduct, or, when such  
4 incompetent person is in a hospital or other  
5 institution for the incompetent person's care and  
6 custody, for the maintenance of reasonable  
7 discipline in the institution; and

8 (b) The force used is not designed to cause or known  
9 to create a risk of causing substantial bodily  
10 injury, disfigurement, extreme pain or mental  
11 distress, or neurological damage.

12 [~~4~~] (3) The actor is a doctor or other therapist or a  
13 person assisting the doctor or therapist at the  
14 doctor's or therapist's direction, and:

15 (a) The force is used for the purpose of  
16 administering a recognized form of treatment  
17 which the actor believes to be adapted to  
18 promoting the physical or mental health of the  
19 patient; and

20 (b) The treatment is administered with the consent of  
21 the patient, or, if the patient is a minor or an  
22 incompetent person, with the consent of the



1 minor's or incompetent person's parent or  
2 guardian or other person legally competent to  
3 consent in the minor's or incompetent person's  
4 behalf, or the treatment is administered in an  
5 emergency when the actor believes that no one  
6 competent to consent can be consulted and that a  
7 reasonable person, wishing to safeguard the  
8 welfare of the patient, would consent.

9 [~~4~~] (4) The actor is a warden or other authorized  
10 official of a correctional institution, and:

11 (a) The actor believes that the force used is  
12 necessary for the purpose of enforcing the lawful  
13 rules or procedures of the institution; and

14 (b) The nature or degree of force used is not  
15 forbidden by other provisions of the law  
16 governing the conduct of correctional  
17 institutions; and

18 (c) If deadly force is used, its use is otherwise  
19 justifiable under this chapter.

20 [~~5~~] (5) The actor is a person responsible for the safety  
21 of a vessel or an aircraft or a person acting at the



1 direction of the person responsible for the safety of  
2 a vessel or an aircraft, and:

3 (a) The actor believes that the force used is  
4 necessary to prevent interference with the  
5 operation of the vessel or aircraft or  
6 obstruction of the execution of a lawful order,  
7 unless the actor's belief in the lawfulness of  
8 the order is erroneous and the actor's error is  
9 due to ignorance or mistake as to the law  
10 defining authority; and

11 (b) If deadly force is used, its use is otherwise  
12 justifiable under this chapter.

13 [~~7~~] (6) The actor is a person who is authorized or  
14 required by law to maintain order or decorum in a  
15 vehicle, train, or other carrier, or in a place where  
16 others are assembled, and:

17 (a) The actor believes that the force used is  
18 necessary for that purpose; and

19 (b) The force used is not designed to cause or known  
20 to create a substantial risk of causing death,  
21 bodily injury or extreme mental distress."



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

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

6 SECTION 5. This Act shall take effect on January 1, 2013.



**Report Title:**

Assault; Excessive Discipline of a Minor

**Description:**

Creates an offense of excessive discipline of a minor by using certain disciplinary actions against a minor under the age of eighteen years. Makes it punishable by a first, second, or third degree assault, depending on severity of injury to the minor. Effective 1/1/2013. (SD1)

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

