
A BILL FOR AN ACT

RELATING TO RESISTING ARREST.

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

1 SECTION 1. The legislature finds that Hawaii's existing
2 penal code does not adequately address situations where an
3 offender takes or attempts to take a law enforcement officer's
4 firearm. In the past, such an offender may have been charged
5 with the offense of attempted theft or attempted escape but not
6 prosecuted because the actions in question do not fulfill the
7 requisite elements of theft or escape statutes: the offender is
8 not trying to deprive the officer permanently of the officer's
9 weapon as is required by the theft statute nor is the offender
10 attempting to get away from the officer as required by the
11 escape statute. Rather, the offender is often trying to
12 temporarily disarm the law enforcement officer.

13 Officers frequently wrestle with offenders while trying to
14 make an arrest, which places their firearms in close proximity
15 to the offender's grasp. This is a very dangerous situation for
16 the law enforcement officer and the offender because a gun in



1 close quarters can discharge and seriously injure or kill the
2 persons involved or bystanders.

3 The legislature further finds that elevating the offense of
4 resisting arrest to a felony will have a greater deterrent
5 effect as well as create a safer working environment for law
6 enforcement personnel.

7 The purpose of this Act is to establish the offense of
8 resisting arrest in the first degree as a felony and to
9 reclassify the existing resisting arrest misdemeanor offense as
10 resisting arrest in the second degree.

11 SECTION 2. Chapter 710, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§710- Resisting arrest in the first degree. (1) A
15 person commits the offense of resisting arrest in the first
16 degree if the person intentionally prevents a law enforcement
17 officer acting under color of the law enforcement officer's
18 official authority from effecting an arrest by removing or
19 attempting to remove a firearm from the person of a law
20 enforcement officer.



1 (2) Resisting arrest in the first degree is a class C
2 felony."

3 SECTION 3. Section 710-1026, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§710-1026 Resisting arrest [-] in the second degree. (1)

6 A person commits the offense of resisting arrest in the second
7 degree if the person intentionally prevents a law enforcement
8 officer acting under color of the law enforcement officer's
9 official authority from effecting an arrest by:

10 (a) Using or threatening to use physical force against the
11 law enforcement officer or another; or

12 (b) Using any other means [~~creating~~] that creates a
13 substantial risk of causing bodily injury to the law
14 enforcement officer or another.

15 (2) Resisting arrest in the second degree is a
16 misdemeanor."

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

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



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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H.B. NO. 362

Report Title:

Penal Code; Resisting Arrest

Description:

Establishes the offense of resisting arrest in the first degree as a felony and reclassifies the existing resisting arrest misdemeanor offense as resisting arrest in the second degree.

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