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# 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 past situations, an offender may have been charged  
5 with the offense of attempted theft or attempted escape.  
6 However, successful prosecution in these circumstances is not  
7 possible because the actions in question do not fulfill the  
8 requisite elements of theft or escape statutes. The conduct of  
9 an offender who is trying to temporarily disarm an officer  
10 constitutes neither an attempt to deprive the officer  
11 permanently of the officer's weapon as is required by the theft  
12 statute nor an attempt to get away from the officer as required  
13 by the escape statute.

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



1 in 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 officers.

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 or knowingly uses or attempts  
17 to use force to remove a firearm from the person of a law  
18 enforcement officer acting under color of the law enforcement  
19 officer's official authority.

20 As used in this section, "firearm" has the same meaning as  
21 in section 134-1.



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 ~~[r-]~~ 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.



**Report Title:**

Resisting Arrest in the First Degree

**Description:**

Creates the offense of resisting arrest in the first degree as a class C felony. Amends the existing resisting arrest misdemeanor offense to resisting arrest in the second degree.  
(HB461 HD1)

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

