

JAN 24 2018

A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

1 SECTION 1. The purpose of this Act is to clarify the
2 offense of trespassing on public housing property.

3 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is
4 amended by adding to part I a new section to be appropriately
5 designated and to read as follows:

6 "§356D- Closed to the public. (a) Any area within a
7 housing project that is not a public street, road, highway,
8 sidewalk, or county or state bus stop, shall be closed to the
9 public where signs are displayed that read: "Closed to the
10 Public - No Trespassing", or a substantially similar message;
11 provided that the signs:

12 (1) Contain letters no less than two inches in height; and

13 (2) Are placed at reasonable intervals no less than three
14 signs to a mile along the boundary line of the areas
15 that are closed to the public and at all entrances to
16 the property, in a manner and position to be clearly
17 noticeable from outside the boundary line.

18 (b) For the purposes of this section:

S.B. NO. 2786

1 "Housing project" means a public housing project, elder or
2 elderly housing, as defined in section 356D-1, or state low-
3 income housing project, as defined in section 356D-51."

4 SECTION 3. Section 708-814, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§708-814 Criminal trespass in the second degree. (1) A
7 person commits the offense of criminal trespass in the second
8 degree if:

9 (a) The person knowingly enters or remains unlawfully in
10 or upon premises that are enclosed in a manner
11 designed to exclude intruders or are fenced;

12 (b) The person enters or remains unlawfully in or upon
13 commercial premises after a reasonable warning or
14 request to leave by the owner or lessee of the
15 commercial premises, the owner's or lessee's
16 authorized agent, or a police officer; provided that
17 this paragraph shall not apply to any conduct or
18 activity subject to regulation by the National Labor
19 Relations Act.

20 For the purposes of this paragraph, "reasonable
21 warning or request" means a warning or request
22 communicated in writing at any time within a one-year

1 period inclusive of the date the incident occurred,
2 which may contain but is not limited to the following
3 information:

4 (i) A warning statement advising the person that the
5 person's presence is no longer desired on the
6 property for a period of one year from the date
7 of the notice, that a violation of the warning
8 will subject the person to arrest and prosecution
9 for trespassing pursuant to this subsection, and
10 that criminal trespass in the second degree is a
11 petty misdemeanor;

12 (ii) The legal name, any aliases, and a photograph, if
13 practicable, or a physical description, including
14 but not limited to sex, racial extraction, age,
15 height, weight, hair color, eye color, or any
16 other distinguishing characteristics of the
17 person warned;

18 (iii) The name of the person giving the warning along
19 with the date and time the warning was given; and

20 (iv) The signature of the person giving the warning,
21 the signature of a witness or police officer who

1 was present when the warning was given and, if
2 possible, the signature of the violator;

3 (c) The person enters or remains unlawfully on
4 agricultural lands without the permission of the owner
5 of the land, the owner's agent, or the person in
6 lawful possession of the land, and the agricultural
7 lands:

8 (i) Are fenced, enclosed, or secured in a manner
9 designed to exclude intruders;

10 (ii) Have a sign or signs displayed on the unenclosed
11 cultivated or uncultivated agricultural land
12 sufficient to give notice and reading as
13 follows: "Private Property" or "Government
14 Property - No Trespassing". The sign or signs,
15 containing letters no less than two inches in
16 height, shall be placed at reasonable intervals
17 no less than three signs to a mile along the
18 boundary line of the land and at roads and trails
19 entering the land in a manner and position as to
20 be clearly noticeable from outside the boundary
21 line; or

(iii) At the time of entry, are fallow or have a visible presence of livestock or a crop:

(A) Under cultivation;

(B) In the process of being harvested; or

(C) That has been harvested;

(d) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:

(i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or

(ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property - No Trespassing", "Government Property - No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters no less than two inches in height and shall be placed at reasonable intervals no less than three signs to a mile along the boundary line of the land and at roads and trails entering the land in a manner and position as to

1 be clearly noticeable from outside the boundary
2 line.

3 For the purposes of this paragraph, "unimproved
4 or unused lands" means any land upon which there is no
5 improvement; construction of any structure, building,
6 or facility; or alteration of the land by grading,
7 dredging, or mining that would cause a permanent
8 change in the land or that would change the basic
9 natural condition of the land. Land remains
10 "unimproved or unused land" under this paragraph
11 notwithstanding minor improvements, including the
12 installation or maintenance of utility poles, signage,
13 and irrigation facilities or systems; minor
14 alterations undertaken for the preservation or prudent
15 management of the unimproved or unused land, including
16 the installation or maintenance of fences, trails, or
17 pathways; maintenance activities, including forest
18 plantings and the removal of weeds, brush, rocks,
19 boulders, or trees; and the removal or securing of
20 rocks or boulders undertaken to reduce risk to
21 downslope properties; or

1 (e) ~~[The person enters or remains unlawfully in or upon~~
2 ~~the premises of any public housing project or state low income~~
3 ~~housing project, as defined in section 356D-1, 356D-51, or 356D-~~
4 ~~91, after a reasonable warning or request to leave by housing~~
5 ~~authorities or a police officer, based upon an alleged violation~~
6 ~~of law or administrative rule; provided that a warning or~~
7 ~~request to leave shall not be necessary between 10:00 p.m. and~~
8 ~~5:00 a.m. at any public housing project or state low income~~
9 ~~housing project that is closed to the public during those hours~~
10 ~~and has signs, containing letters no less than two inches in~~
11 ~~height, placed at reasonable intervals no less than three signs~~
12 ~~to a mile along the boundary of the project property and at all~~
13 ~~entrances to the property, in a manner and position to be~~
14 ~~clearly noticeable from outside the boundary of the project~~
15 ~~property and to give sufficient notice that the public housing~~
16 ~~project or state low income housing project is closed to the~~
17 ~~public during those hours.]~~ The person enters or remains:

18 (i) Unlawfully in or upon any area of a housing
19 project that is closed to the public as set forth
20 in section 356D- , and has signage required by
21 section 356D- ; or

1 (ii) In any area of a housing project that is closed
2 to the public as set forth in section 356D-____,
3 and has signage required by section 356D-____,
4 after a reasonable warning or request to leave
5 that housing project by the housing authority or
6 a law enforcement officer as defined in section
7 710-1000, based upon an alleged violation of law
8 or administrative rule, notwithstanding any
9 invitation or authorization provided to the
10 person by a tenant or member of tenant's
11 household of that housing project.

12 As used in this paragraph:

13 "Housing authority" means a property manager,
14 resident manager, tenant monitors, security guards, or
15 others officially designated by the Hawaii public
16 housing authority, for the housing project.

17 "Housing project" means a public housing project,
18 or elder or elderly housing as defined in section
19 356D-1, or state low-income housing project as defined
20 in section 356D-51.

21 "Reasonable warning or request" means a warning
22 or request communicated in writing at any time within

1 a one-year period inclusive of the date the incident
2 occurred, which may contain but is not limited to the
3 following information:

4 (i) A warning statement advising the person that
5 for a period of one year from the date of
6 the notice, the person's presence is no
7 longer desired in or on the areas of the
8 subject housing project that are closed to
9 the public, that a violation of the warning
10 will subject the person to arrest and
11 prosecution for trespassing pursuant to
12 paragraph (e), and that criminal trespass in
13 the second degree is a petty misdemeanor;

14 (ii) The legal name, any aliases, and a
15 photograph, if practicable, or a physical
16 description, including but not limited to
17 sex, racial extraction, age, height, weight,
18 hair color, eye color, or any other
19 distinguishing characteristics of the person
20 warned;

(iii) The name of the person giving the warning
along with the date and time the warning was
given;

1 district court rules of civil procedure, Hawaii family court
2 rules, or section 353C-10 to serve process.

3 ~~[(3) As used in this section:~~

4 ~~"Housing authorities" means resident managers or managers,~~
5 ~~tenant monitors, security guards, or others officially~~
6 ~~designated by the Hawaii public housing authority.~~

7 ~~"Process server" means any person authorized under the~~
8 ~~Hawaii rules of civil procedure, district court rules of civil~~
9 ~~procedure, Hawaii family court rules, or section 353C-10 to~~
10 ~~serve process.~~

11 ~~(4)]~~ (3) Criminal trespass in the second degree is a petty
12 misdemeanor."

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

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

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

19

20

21

INTRODUCED BY:



22

BY REQUEST

23

Report Title:

Hawaii Public Housing Authority; Trespass

Description:

Provides that certain areas within Hawaii Public Housing Authority housing projects are closed to the public and amends criminal trespass in the second degree to permit the prosecution of an unauthorized entry or a violation of a written prohibition to enter into the subject housing projects. Clarifies requirements for signage notifying trespassers of illegal entry.

JUSTIFICATION SHEET

DEPARTMENT: Hawaii Public Housing Authority (Human Services)

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

PURPOSE: To expressly provide that certain areas of the Hawaii Public Housing Authority (HPHA) housing projects are closed to the public. To amend criminal trespass in the second degree to permit the prosecution of any unauthorized entry into any closed HPHA project property or any violation of a written prohibition to enter such property.

MEANS: Add a new section to part I of chapter 356D and amend section 708-814, Hawaii Revised Statutes.

JUSTIFICATION: This measure will assist the HPHA to prosecute trespassers for unauthorized entry, or violation of a written prohibition to enter a housing project based on an unlawful act. The measure clarifies what property is closed to members of the public in a housing project. It defines what constitutes a "reasonable warning or request" to leave a housing project.

Impact on the public: There should be a positive impact on the public, including public housing tenants and their household members, by excluding unauthorized non-tenants from the housing project and provide for a safer living environment.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 220; HMS 229.

OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.