
A BILL FOR AN ACT

RELATING TO HEALTH CARE WORKERS.

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

1 SECTION 1. The legislature finds that the National
2 Institute for Occupational Safety and Health of the Centers for
3 Disease Control and Prevention defines workplace violence as
4 "the act or threat of violence, ranging from verbal abuse to
5 physical assaults directed toward persons at work or on duty"
6 and states that the "impact of workplace violence can range from
7 psychological issues to physical injury, or even death.
8 Violence can occur in any workplace and among any type of
9 workers, but the risk for fatal violence is greater for workers
10 in sales, protective services, and transportation, while the
11 risk for nonfatal violence resulting in days away from work is
12 greatest for healthcare and social assistance workers." A study
13 released by the United States Occupational Safety and Health
14 Administration found that between 2002 and 2013, incidents of
15 serious workplace violence (i.e., those requiring days off for
16 the injured worker to recuperate) were, on average, four times



1 more common in the field of health care than in private
2 industry.

3 The legislature further finds that workers in hospitals,
4 nursing homes, and other health care settings face significant
5 risks of workplace violence. The Occupational Safety and Health
6 Administration also found that health care accounts for nearly
7 as many serious violent injuries as all other industries
8 combined. However, many assaults or threats remain unreported.
9 This situation results, in part, because of the unique cultural
10 factors of health care. For example, a staff member may feel a
11 professional and ethical duty to "do no harm" to patients. For
12 health care security professionals who put their own safety and
13 health at risk to intervene during incidents of violence at a
14 health care facility, the occurrence of violence may be
15 considered a part of the job.

16 The legislature also finds that health care security
17 professionals are currently not included as one of the protected
18 categories of health care professionals who have the ability to
19 bring felony charges when they are assaulted while performing
20 the duties of their profession even though these professionals
21 face a heightened risk of injuries. Health care security



1 professionals are unarmed and specifically trained to deescalate
2 a situation; they do not lay hands on patients unless directed
3 to do so by clinical staff. At The Queen's Medical Center -
4 Punchbowl (Queen's) in 2018, there were over twenty-five
5 assault-related dispatch calls to the Queen's security team.
6 Nineteen calls resulted in calls to the Honolulu police
7 department, and five calls involved an assault on a health care
8 security professional. These incidents do not include those
9 involving behavioral health patients and reflect a disturbing
10 trend of violence becoming a more common source of injury in
11 health care. Although assault-related dispatches accounted for
12 only a small portion of the thousands of dispatches to which the
13 Queen's security team responds on an annual basis, the severity
14 of violent incidents has increased.

15 In order to create workplaces that protect and support
16 staff, local health care facilities have been working toward
17 implementing policies and programs that promote workplace
18 violence prevention, strengthen broader safety and health
19 objectives, and build upon a culture of safety. Hospitals such
20 as Queen's have voluntarily implemented comprehensive policies
21 and procedures for workplace violence prevention, including



1 collecting data of incidents on campus to improve quality and
2 safety, and providing specific training and certification for
3 health care security professionals that are aligned with
4 international guidelines from the International Association for
5 Healthcare Security and Safety.

6 The legislature additionally finds that health care
7 security professionals play a critical role in a health care
8 team and strive to provide a safe environment for all staff and
9 patients.

10 The purpose of this Act is to support health care security
11 professionals by classifying assault against these professionals
12 as felony assault in the second degree.

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

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

17 (a) The person intentionally, knowingly, or recklessly
18 causes substantial bodily injury to another;

19 (b) The person recklessly causes serious bodily injury to
20 another;



- 1 (c) The person intentionally or knowingly causes bodily
2 injury to a correctional worker, as defined in section
3 710-1031(2), who is engaged in the performance of duty
4 or who is within a correctional facility;
- 5 (d) The person intentionally or knowingly causes bodily
6 injury to another with a dangerous instrument;
- 7 (e) The person intentionally or knowingly causes bodily
8 injury to an educational worker who is engaged in the
9 performance of duty or who is within an educational
10 facility. For the purposes of this paragraph,
11 "educational worker" means any administrator,
12 specialist, counselor, teacher, or employee of the
13 department of education or an employee of a charter
14 school; a person who is a volunteer, as defined in
15 section 90-1, in a school program, activity, or
16 function that is established, sanctioned, or approved
17 by the department of education; or a person hired by
18 the department of education on a contractual basis and
19 engaged in carrying out an educational function;
- 20 (f) The person intentionally or knowingly causes bodily
21 injury to any emergency medical services provider who



1 is engaged in the performance of duty. For the
 2 purposes of this paragraph, "emergency medical
 3 services provider" means emergency medical services
 4 personnel, as defined in section 321-222, and
 5 physicians, physician's assistants, nurses, nurse
 6 practitioners, certified registered nurse
 7 anesthetists, respiratory therapists, laboratory
 8 technicians, radiology technicians, and social
 9 workers, providing services in the emergency room of a
 10 hospital;

11 (g) The person intentionally or knowingly causes bodily
 12 injury to a person employed at a state-operated or
 13 -contracted mental health facility. For the purposes
 14 of this paragraph, "a person employed at a state-
 15 operated or -contracted mental health facility"
 16 includes health care professionals as defined in
 17 section 451D-2, administrators, orderlies, security
 18 personnel, volunteers, and any other person who is
 19 engaged in the performance of a duty at a state-
 20 operated or -contracted mental health facility;



- 1 (h) The person intentionally or knowingly causes bodily
2 injury to a person who:
 - 3 (i) The defendant has been restrained from, by order
4 of any court, including an ex parte order,
5 contacting, threatening, or physically abusing
6 pursuant to chapter 586; or
 - 7 (ii) Is being protected by a police officer ordering
8 the defendant to leave the premises of that
9 protected person pursuant to section 709-906(4),
10 during the effective period of that order;
- 11 (i) 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 (j) The person intentionally or knowingly causes bodily
21 injury to a person who is engaged in the performance



1 of duty at a health care facility as defined in
2 section 323D-2. For purposes of this paragraph, "a
3 person who is engaged in the performance of duty at a
4 health care facility" shall include health care
5 professionals as defined in section 451D-2, physician
6 assistants, surgical assistants, advanced practice
7 registered nurses, nurse aides, respiratory
8 therapists, laboratory technicians, [~~and~~] radiology
9 technicians[+], and health care security
10 professionals. As used in this paragraph, "health
11 care security professionals" means individuals
12 employed by a health care facility who have received
13 training or certification specifically designed for
14 health care security and safety;

- 15 (k) The person intentionally or knowingly causes bodily
16 injury to a person who is engaged in providing home
17 health care services, as defined in section 431:10H-
18 201; or
- 19 (l) The person intentionally or knowingly causes bodily
20 injury to a person, employed or contracted to work by
21 a mutual benefit society, as defined in section 432:1-



1 104, to provide case management services to an
2 individual in a hospital, health care provider's
3 office, or home, while that person is engaged in the
4 performance of those services."

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

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

10 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Health Care Security Professionals; Felony Assault in the Second Degree; Penal Code

Description:

Classifies assault against health care security professionals as felony assault in the second degree. Effective 7/1/2050. (HD1)

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