
A BILL FOR AN ACT

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

1 RELATING TO HEALTH CARE WORKERS.

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



1 Workers in hospitals, nursing homes, and other healthcare
2 settings face significant risks of workplace violence. OSHA also
3 found that healthcare accounts for nearly as many serious
4 violent injuries as all other industries combined. However, many
5 assaults or threats are unreported. This is in part, due to the
6 unique cultural factors of healthcare. For example, a staff
7 member may feel a professional and ethical duty to "do not harm"
8 to patients. For healthcare security professionals, who put
9 their own safety and health at risk to intervene during
10 incidences of violence at a health care facility, the occurrence
11 of violence may be considered "a part of the job".

12 Healthcare security professionals are currently not included as
13 one of the protected categories of healthcare professionals who
14 have the ability to bring felony charges when they are assaulted
15 while performing the duties of their profession. Healthcare
16 security professionals are unarmed and do not lay hands on
17 patients unless direct to by clinical staff. At Queen's Medical
18 Center - Punchbowl (Queen's), in 2018, there were over 25
19 assault related dispatch calls to the Queen's Security Team, 19
20 resulted in calls to the Honolulu Police Department, and 5 of
21 them involved an assault on a healthcare security professionals



1 being assaulted. These incidences do not include those involving
2 behavioral health patients and reflect a disturbing trend of
3 violence becoming a more common source of injury in healthcare.
4 Although assault related dispatches accounted for only a small
5 portion of the thousands of dispatches Queen's Security Teams
6 responds to on an annual basis, the severity of violent
7 incidences has increased.

8 In order to create workplaces that protect and support
9 staff, local health care facilities have been working towards
10 implementing policies and programs that promote workplace
11 violence prevention, broader safety and health objectives, and
12 build upon a "culture of safety". Hospitals like Queen's, have
13 voluntarily implemented comprehensive policies and procedures
14 for workplace violence prevention, collecting data of incidences
15 on campus to improve quality and safety, and currently provides
16 specific training and certification for healthcare security
17 professionals that are aligned with the International guidelines
18 from the International Association for Healthcare Security and
19 Safety.

20 The legislature finds that healthcare workers are at an
21 increased risk for workplace violence, in part due to the unique



1 cultural challenges of the ethical duty to "do no harm" and the
2 pervasive notion that violence is "part of the job".
3 Furthermore, the legislature finds that healthcare security
4 professionals play a critical role in the care team. When
5 incidences of violence arise at a health care facility,
6 healthcare security professionals are specifically trained to
7 deescalate the situation, are unarmed, and do not lay hands on
8 patients unless direct to by clinical staff. Finally, the
9 legislature finds that healthcare security professionals provide
10 a safe environment for all staff and patients, and are at risk
11 of sustaining violent injuries because of their profession.
12 The purpose of this Act is to define and include healthcare
13 security professionals in the current statute relating to the
14 offense of assault in the second degree.

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

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

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



1 (b) The person recklessly causes serious bodily injury to
2 another;

3 (c) The person intentionally or knowingly causes bodily
4 injury to a correctional worker, as defined in section 710-
5 1031(2), who is engaged in the performance of duty or who is
6 within a correctional facility;

7 (d) The person intentionally or knowingly causes bodily
8 injury to another with a dangerous instrument;

9 (e) The person intentionally or knowingly causes bodily
10 injury to an educational worker who is engaged in the
11 performance of duty or who is within an educational facility.
12 For the purposes of this paragraph, "educational worker" means
13 any administrator, specialist, counselor, teacher, or employee
14 of the department of education or an employee of a charter
15 school; a person who is a volunteer, as defined in section 90-1,
16 in a school program, activity, or function that is established,
17 sanctioned, or approved by the department of education; or a
18 person hired by the department of education on a contractual
19 basis and 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 is engaged



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

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

17 (h) The person intentionally or knowingly causes bodily
18 injury to a person who:

19 (i) The defendant has been restrained from, by order
20 of any court, including an ex parte order, contacting,
21 threatening, or physically abusing pursuant to chapter 586; or



1 (ii) Is being protected by a police officer ordering
2 the defendant to leave the premises of that protected person
3 pursuant to section 709-906(4), during the effective period of
4 that order;

5 (i) The person intentionally or knowingly causes bodily
6 injury to any firefighter or water safety officer who is engaged
7 in the performance of duty. For the purposes of this paragraph,
8 "firefighter" has the same meaning as in section 710-1012 and
9 "water safety officer" means any public servant employed by the
10 United States, the State, or any county as a lifeguard or person
11 authorized to conduct water rescue or ocean safety functions;

12 (j) The person intentionally or knowingly causes bodily
13 injury to a person who is engaged in the performance of duty at
14 a health care facility as defined in section 323D-2. For
15 purposes of this paragraph, "a person who is engaged in the
16 performance of duty at a health care facility" shall include
17 healthcare security professionals and health care professionals
18 as defined in section 451D-2, physician assistants, surgical
19 assistants, advanced practice registered nurses, nurse aides,
20 respiratory therapists, laboratory technicians, and radiology
21 technicians. For purposes of this paragraph, "healthcare



1 security professionals" means individuals employed by a health
2 care facility, as defined in section 323D-2, who have received
3 training or certification specifically designed for healthcare
4 security and safety.

5 (k) The person intentionally or knowingly causes bodily
6 injury to a person who is engaged in providing home health care
7 services, as defined in section 431:10H-201; or

8 (l) The person intentionally or knowingly causes bodily
9 injury to a person, employed or contracted to work by a mutual
10 benefit society, as defined in section 432:1-104, to provide
11 case management services to an individual in a hospital, health
12 care provider's office, or home, while that person is engaged in
13 the performance of those services."

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

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

19 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Health Care Workers; Professional Security Personnel, Felony
Assault in the Second Degree; Penal Code

Description:

Makes intentionally or knowingly causing bodily injury to
certain health care facility workers a Class C felony.

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

