

JAN 18 2019

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 both in Hawaii and
2 nationally, incidents of violence against health care workers
3 are five to twelve times more likely than in other professions,
4 and those numbers are still rising. A 2017 survey of Hawaii
5 hospitals, nursing homes, and home health care agencies found a
6 record number of one thousand seventy-five incidents of assault
7 against workers. The legislature further finds that health care
8 workers are particularly vulnerable to attack in part because of
9 the generally public and unsecured nature of their workplaces.

10 Act 147, Session Laws of Hawaii 2018, expanded protection
11 for certain health care workers by penalizing assault against
12 them as felony assault in the second degree. The legislature
13 finds that extending this protection to other workers who
14 support the functions of health care facilities, including
15 administrators, students, and volunteers, will increase
16 retention of and provide necessary protections for vulnerable



1 health care professionals working alongside their protected
2 colleagues.

3 The purpose of this Act is to extend protections to workers
4 who support the functions of health care facilities, including
5 administrators, students, and volunteers, by classifying assault
6 against these workers as felony assault in the second degree.

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

9 "(1) A person commits the offense of assault in the second
10 degree if[+] the person:

11 (a) [~~The person intentionally,~~] Intentionally, knowingly,
12 or recklessly causes substantial bodily injury to
13 another;

14 (b) [~~The person recklessly~~] Recklessly causes serious
15 bodily injury to another;

16 (c) [~~The person intentionally~~] Intentionally or knowingly
17 causes bodily injury to a correctional worker, as
18 defined in section 710-1031(2), who is engaged in the
19 performance of duty or who is within a correctional
20 facility;



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



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

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

19 (h) [~~The person intentionally~~] Intentionally or knowingly
20 causes bodily injury to a person who:



- 1 (i) The defendant has been restrained from, by order
2 of any court, including an ex parte order,
3 contacting, threatening, or physically abusing
4 pursuant to chapter 586; or
- 5 (ii) Is being protected by a police officer ordering
6 the defendant to leave the premises of that
7 protected person pursuant to section 709-906(4),
8 during the effective period of that order;
- 9 (i) [~~The person intentionally~~] Intentionally or knowingly
10 causes bodily injury to any firefighter or water
11 safety officer who is engaged in the performance of
12 duty. For the purposes of this paragraph,
13 "firefighter" has the same meaning as in section 710-
14 1012 and "water safety officer" means any public
15 servant employed by the United States, the State, or
16 any county as a lifeguard or person authorized to
17 conduct water rescue or ocean safety functions;
- 18 (j) [~~The person intentionally~~] Intentionally or knowingly
19 causes bodily injury to a person who is engaged in the
20 performance of duty at a health care facility as
21 defined in section 323D-2. For purposes of this



1 paragraph, "a person who is engaged in the performance
2 of duty at a health care facility" shall include
3 health care professionals as defined in section 451D-
4 2, physician assistants, surgical assistants, advanced
5 practice registered nurses, nurse aides, respiratory
6 therapists, laboratory technicians, [~~and~~] radiology
7 technicians[+], and any other workers who support the
8 functions of the health care facility, including
9 administrators, students, and volunteers;

10 (k) [~~The person intentionally~~] Intentionally or knowingly
11 causes bodily injury to a person who is engaged in
12 providing home health care services, as defined in
13 section 431:10H-201; or

14 (l) [~~The person intentionally~~] Intentionally or knowingly
15 causes bodily injury to a person, employed or
16 contracted to work by a mutual benefit society, as
17 defined in section 432:1-104, to provide case
18 management services to an individual in a hospital,
19 health care provider's office, or home, while that
20 person is engaged in the performance of those
21 services."



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

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

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

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Report Title:

Health Care Workers; 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.

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