

ACT 116

H.B. NO. 2343

A Bill for an Act Relating to the Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Throughout history, victims of emergencies or disasters have often become victimized a second time by opportunists who engage in civil unrest, looting, and other crimes. Most recently, the world had a front-row seat to wide spread criminal activity and looting following Hurricane Katrina.

The legislature recognizes that if strong measures to control law and order are not in place before a disaster or emergency, civil unrest and looting and other crimes are likely to increase after a disaster or emergency. The legislature also recognizes that preventive measures require fewer resources than those required to restore and rebuild.

The legislature also finds that when resources are needed to restore law and order, emergency response aid to victims is hampered and delayed, leaving victims at an increased risk of bodily injury or death.

The legislature finds that every effort should be made to protect the health and safety of the public by preventing civil unrest and looting and other crimes before they occur and that severe penalties will deter the majority of these crimes of opportunity.

The purpose of this Act is to significantly increase the criminal penalties for the commission of certain crimes during a time of civil defense emergency proclaimed by the governor under chapter 128, Hawaii Revised Statutes, or during the period of disaster relief under chapter 127, Hawaii Revised Statutes.

SECTION 2. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§707- Assault against an emergency worker. (1) A person commits the offense of assault against an emergency worker if the person, during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127:

- (a) Intentionally, knowingly, or recklessly causes serious or substantial bodily injury to an emergency worker; or
 - (b) Intentionally, knowingly, or recklessly causes bodily injury to an emergency worker with a dangerous instrument.
- (2) Assault against an emergency worker is a class B felony.”

SECTION 3. Chapter 708, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§708- Burglary of a dwelling during a civil defense emergency or disaster relief period. (1) A person commits the offense of burglary of a dwelling during a civil defense emergency or disaster relief period if the person:

- (a) Intentionally enters or remains unlawfully in a dwelling with intent to commit therein a crime against a person or against property rights; and
- (b) Recklessly disregards a risk that the building is the dwelling of another, and the building is such a dwelling,

during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127.

(2) Burglary of a dwelling during a civil defense emergency or disaster relief period is a class A felony.

§708- Burglary of a building during a civil defense emergency or disaster relief period. (1) A person commits the offense of burglary of a building during a civil defense emergency or disaster relief period if the person intentionally enters or remains unlawfully in a building other than a dwelling with intent to commit therein a crime against a person or against property rights during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127.

(2) Burglary of a building during a civil defense emergency or disaster relief period is a class B felony.”

SECTION 4. Section 707-700, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Emergency worker” means any:

- (1) Law enforcement officer, including but not limited to any police officer, public safety officer, parole or probation officer, or any other officer of any county, state, federal, or military agency authorized to exercise law enforcement or police powers;
- (2) Firefighter, emergency medical services personnel, emergency medical technician, ambulance crewmember, or any other emergency response personnel;
- (3) Member of the Hawaii national guard on any duty or service done under or in pursuance of an order or call of the governor or the President of the United States or any proper authority;
- (4) Member of the United States Army, Air Force, Navy, Marines, or Coast Guard on any duty or service done under or in pursuance of an order or call of the President of the United States or any proper authority;
- (5) Member of the national guard from any other state ordered into service by any proper authority;
- (6) Person engaged in civil defense functions as authorized by the director of civil defense or as otherwise authorized under chapter 128; or

- (7) Person engaged in disaster relief by authorization of the director of disaster relief or as otherwise authorized under chapter 127.”

SECTION 5. Section 708-820, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminal property damage in the first degree if:

- (a) The person intentionally or knowingly damages property and thereby recklessly places another person in danger of death or bodily injury; [or]
- (b) The person intentionally or knowingly damages the property of another, without the other’s consent, in an amount exceeding \$20,000[-];
- or
- (c) The person intentionally or knowingly damages the property of another during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127.”

SECTION 6. Section 708-830.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the first degree if the person commits theft:

- (a) Of property or services, the value of which exceeds \$20,000;
- (b) Of a firearm; [or]
- (c) Of dynamite or other explosive[-]; or
- (d) Of property or services during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127, the value of which exceeds \$300.”

SECTION 7. Section 708-840, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of robbery in the first degree if, in the course of committing theft:

- (a) The person attempts to kill another, or intentionally or knowingly inflicts or attempts to inflict serious bodily injury upon another; [or]
- (b) The person is armed with a dangerous instrument and:
 - (i) The person uses force against the person of anyone present with intent to overcome that person’s physical resistance or physical power of resistance; or
 - (ii) The person threatens the imminent use of force against the person of anyone [who-is] present with intent to compel acquiescence to the taking of or escaping with the property[-];
- (c) The person uses force against the person of anyone present with the intent to overcome that person’s physical resistance or physical power of resistance during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127; or
- (d) The person threatens the imminent use of force against the person of anyone present with intent to compel acquiescence to the taking of or

escaping with the property during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127.’’

SECTION 8. This Act does not affect rights and duties that were matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and ~~stricken~~. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved May 22, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.