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## A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1           SECTION 1. Section 708-813, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§708-813 Criminal trespass in the first degree.** (1) A  
4 person commits the offense of criminal trespass in the first  
5 degree if:

6           (a) That person knowingly enters or remains unlawfully:

7                 (i) In a dwelling; or

8                 (ii) In or upon the premises of a hotel or apartment  
9 building;

10          (b) That person:

11                 (i) Knowingly enters or remains unlawfully in or upon  
12 premises that are fenced or enclosed in a manner  
13 designed to exclude intruders; and

14                 (ii) Is in possession of a firearm, as defined in  
15 section 134-1, at the time of the intrusion; or

16          (c) That person enters or remains unlawfully in or upon  
17 the premises of any public school as defined in



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1 section 302A-101, or any private school, after  
2 reasonable warning or request to leave by school  
3 authorities or a police officer; provided however,  
4 such warning or request to leave shall be unnecessary  
5 between 10:00 p.m. and 5:00 a.m.

6 (2) Subsection (1) shall not apply to a process server who  
7 enters or remains in or upon the premises of another, unless the  
8 premises are secured with a fence and locked gate, for the  
9 purpose of making a good faith attempt to serve process upon any  
10 of the following:

11 (a) An owner or occupant of the premises;

12 (b) An agent of the owner or occupant of the premises; or

13 (c) A lessee of the premises.

14 (3) As used in this section, "process server" means any  
15 person authorized under the Hawaii rules of civil procedure,  
16 district court rules of civil procedure, and Hawaii family court  
17 rules or section 353C-10 to serve process.

18 ~~[(+2)]~~ (4) Criminal trespass in the first degree is a  
19 misdemeanor."

20 SECTION 2. Section 708-814, Hawaii Revised Statutes, is  
21 amended to read as follows:



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1           **"§708-814 Criminal trespass in the second degree. (1) A**  
2 person commits the offense of criminal trespass in the second  
3 degree if:

4           (a) The person knowingly enters or remains unlawfully in  
5 or upon premises that are enclosed in a manner  
6 designed to exclude intruders or are fenced;

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

15           For the purposes of this paragraph, "reasonable  
16 warning or request" means a warning or request  
17 communicated in writing at any time within a one-year  
18 period inclusive of the date the incident occurred,  
19 which may contain but is not limited to the following  
20 information:



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- 1           (i) A warning statement advising the person that the  
2           person's presence is no longer desired on the  
3           property for a period of one year from the date  
4           of the notice, that a violation of the warning  
5           will subject the person to arrest and prosecution  
6           for trespassing pursuant to section  
7           708-814(1)(b), and that criminal trespass in the  
8           second degree is a petty misdemeanor;
- 9           (ii) The legal name, any aliases, and a photograph, if  
10          practicable, or a physical description, including  
11          but not limited to sex, racial extraction, age,  
12          height, weight, hair color, eye color, or any  
13          other distinguishing characteristics of the  
14          person warned;
- 15          (iii) The name of the person giving the warning along  
16          with the date and time the warning was given; and
- 17          (iv) The signature of the person giving the warning,  
18          the signature of a witness or police officer who  
19          was present when the warning was given and, if  
20          possible, the signature of the violator;



- 1 (c) The person enters or remains unlawfully on  
2 agricultural lands without the permission of the owner  
3 of the land, the owner's agent, or the person in  
4 lawful possession of the land, and the agricultural  
5 lands:
- 6 (i) Are fenced, enclosed, or secured in a manner  
7 designed to exclude intruders;
- 8 (ii) Have a sign or signs displayed on the unenclosed  
9 cultivated or uncultivated agricultural land  
10 sufficient to give notice and reading as follows:  
11 "Private Property". The sign or signs,  
12 containing letters not less than two inches in  
13 height, shall be placed along the boundary line  
14 of the land and at roads and trails entering the  
15 land in a manner and position as to be clearly  
16 noticeable from outside the boundary line; or
- 17 (iii) At the time of entry, are fallow or have a  
18 visible presence of livestock or a crop:
- 19 (A) Under cultivation;
- 20 (B) In the process of being harvested; or
- 21 (C) That has been harvested;



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

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

7 (ii) Have a sign or signs displayed on the unenclosed,  
8 unimproved, or unused land sufficient to give  
9 reasonable notice and reads as follows: "Private  
10 Property - No Trespassing", "Government Property  
11 - No Trespassing", or a substantially similar  
12 message; provided that the sign or signs shall  
13 contain letters not less than two inches in  
14 height and shall be placed at reasonable  
15 intervals along the boundary line of the land and  
16 at roads and trails entering the land in a manner  
17 and position as to be clearly noticeable from  
18 outside the boundary line.

19 For the purposes of this paragraph, "unimproved  
20 or unused lands" means any land upon which there is no  
21 improvement; construction of any structure, building,



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1 or facility; or alteration of the land by grading,  
2 dredging, or mining that would cause a permanent  
3 change in the land or that would change the basic  
4 natural condition of the land. Land remains  
5 "unimproved or unused land" under this paragraph  
6 notwithstanding minor improvements, including the  
7 installation or maintenance of utility poles, signage,  
8 and irrigation facilities or systems; minor  
9 alterations undertaken for the preservation or prudent  
10 management of the unimproved or unused land, including  
11 the installation or maintenance of fences, trails, or  
12 pathways; maintenance activities, including forest  
13 plantings and the removal of weeds, brush, rocks,  
14 boulders, or trees; and the removal or securing of  
15 rocks or boulders undertaken to reduce risk to  
16 downslope properties; or  
17 (e) The person enters or remains unlawfully in or upon the  
18 premises of any public housing project or state low-  
19 income housing project, as defined in section 356D-1,  
20 356D-51, or 356D-91, after a reasonable warning or  
21 request to leave by housing authorities or a police



1 officer, based upon an alleged violation of law or  
2 administrative rule; provided that a warning or  
3 request to leave shall not be necessary between 10:00  
4 p.m. and 5:00 a.m. at any public housing project or  
5 state low-income housing project that is closed to the  
6 public during those hours and has signs, containing  
7 letters not less than two inches in height, placed  
8 along the boundary of the project property, at all  
9 entrances to the property, in a manner and position to  
10 be clearly noticeable from outside the boundary of the  
11 project property and to give sufficient notice that  
12 the public housing project or state low-income housing  
13 project is closed to the public during those hours.

14 (2) Subsection (1) shall not apply to a process server who  
15 enters or remains in or upon the land or premises of another,  
16 unless the land or premises are secured with a fence and locked  
17 gate, for the purpose of making a good faith attempt to serve  
18 process upon any of the following:

19 (a) An owner or occupant of the land or premises;

20 (b) An agent of the owner or occupant of the land or  
21 premises; or



1       (c) A lessee of the land or premises.

2       ~~(2)~~ (3) As used in this section~~["housing"]~~:

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

6       "Process server" means any person authorized under the  
7 supreme court rules or section 353C-10 to serve process.

8       ~~(3)~~ (4) Criminal trespass in the second degree is a petty  
9 misdemeanor."

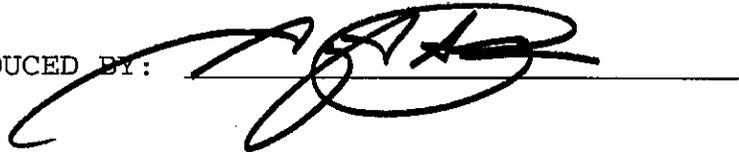
10       SECTION 3. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date.

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

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

16

INTRODUCED BY:



JAN 21 2015



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**Report Title:**

Process Server; Criminal Trespass

**Description:**

Shields process servers from prosecution under criminal trespass statutes when performing their duties.

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

