

JAN 23 2020

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# A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST HEALTH CARE SECURITY PROFESSIONALS.

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

1           SECTION 1. The legislature finds that, according to the  
2 National Institute for Occupational Safety and Health division  
3 of the Centers for Disease Control and Prevention, "[w]orkplace  
4 violence is the act or threat of violence, ranging from verbal  
5 abuse to physical assaults directed toward persons at work or on  
6 duty. 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 worker, but the risk of fatal violence is greater for workers in  
10 sales, protective services, and transportation, while the risk  
11 for nonfatal violence resulting in days away from work is  
12 greatest for healthcare and social assistance workers."

13           A study released by the United States Office of  
14 Occupational Safety and Health Administration (OSHA) found that  
15 from 2002 to 2013, incidents of serious workplace violence  
16 (those requiring days off for the injured worker to recuperate)  
17 were four times more common in health care than in private



1 industry on average. Workers in hospitals, nursing homes, and  
2 other health care settings face significant risks of workplace  
3 violence. OSHA also found that health care accounts for nearly  
4 as many serious violent injuries as all other industries  
5 combined. However, many assaults or threats are unreported.  
6 This is, in part, due to the unique cultural factors of  
7 healthcare. For example, a health care staff member may feel a  
8 professional and ethical duty to "do no harm" to patients. For  
9 health care security professionals, who put their own safety and  
10 health at risk to intervene during incidences of violence at a  
11 health care facility, the occurrence of violence may be  
12 considered a part of the job.

13 Under existing law, health care security professionals are  
14 not included as one of the protected categories of health care  
15 professionals who may press felony charges when they are  
16 assaulted while performing the duties of their profession.  
17 Health care security professionals are unarmed and do not lay  
18 hands on patients unless directed to do so by clinical staff.  
19 At The Queen's Medical Center in 2018, there were over twenty-  
20 five assault-related dispatch calls to the medical center's  
21 security team; nineteen resulted in calls to the Honolulu Police



1 Department, and five of them involved an assault on a health  
2 care security professional. These incidents did not involve  
3 patients with behavioral health issues and reflect a disturbing  
4 trend of workplace violence against those in health care  
5 facilities. Although assault-related dispatches account for  
6 only a small portion of the thousands of dispatches for which  
7 The Queen's Medical Center security team responds on an annual  
8 basis, the severity of violent incidents has increased.

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



1           The legislature therefore finds that health care workers,  
2 including health care security professionals, are at an  
3 increased risk for workplace violence, in part due to the unique  
4 challenges of their job. Additionally, health care security  
5 professionals play a critical role for the health care team.  
6 Health care security professionals are specifically trained to  
7 deescalate the situation, are unarmed, and do not lay hands on  
8 patients unless directed to do so by clinical staff, and  
9 therefore, they are at risk of sustaining violent injuries due  
10 to the nature of their profession.

11           Accordingly, the purpose of this Act is to make the offense  
12 of assault in the second degree on a health care security  
13 professional a class C felony.

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

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

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

20           (b) The person recklessly causes serious bodily injury to  
21 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



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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. For purposes of this paragraph,  
11 "health care security professional" means an  
12 individual employed by a health care facility as  
13 defined in section 323D-2 who has received training or  
14 certification specifically designed for health care  
15 security and safety;

16 (k) The person intentionally or knowingly causes bodily  
17 injury to a person who is engaged in providing home  
18 health care services, as defined in section  
19 431:10H-201; or

20 (l) The person intentionally or knowingly causes bodily  
21 injury to a person, employed or contracted to work by



1 a mutual benefit society, as defined in section  
2 432:1-104, to provide case management services to an  
3 individual in a hospital, health care provider's  
4 office, or home, while that person is engaged in the  
5 performance of those services."

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

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

11 SECTION 5. This Act shall take effect on July 1, 2020.

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INTRODUCED BY: Resuly H Baker  
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# S.B. NO. 3044

**Report Title:**

Health Care Security Professionals; Assault; Felonies

**Description:**

Classifies the offense of assault in the second degree of a health care security professional as a class C felony.

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