
A BILL FOR AN ACT

RELATING TO RESISTING ARREST.

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

1 SECTION 1. The legislature finds that Hawaii's existing
2 penal code does not adequately address situations where an
3 offender takes or attempts to take a law enforcement officer's
4 firearm. In past situations, an offender may have been charged
5 with the offense of attempted theft or attempted escape.
6 However, successful prosecution in these circumstances is not
7 possible because the actions in question do not fulfill the
8 requisite elements of theft or escape statutes. The conduct of
9 an offender who is trying to temporarily disarm an officer
10 constitutes neither an attempt to deprive the officer
11 permanently of the officer's weapon as is required by the theft
12 statute nor an attempt to get away from the officer as required
13 by the escape statute.

14 Officers sometimes engage in physical altercation with
15 offenders while trying to make an arrest, placing their firearms
16 in close proximity to the offender's grasp. This can result in
17 a dangerous situation for both the law enforcement officer and



1 the offender because a gun in close quarters can discharge and
2 seriously injure or kill the persons involved or bystanders.

3 The legislature further finds that elevating the offense of
4 resisting arrest to a felony will have a greater deterrent
5 effect as well as create a safer working environment for law
6 enforcement officers.

7 The purpose of this Act is to establish the offense of
8 resisting arrest in the first degree as a felony and to
9 reclassify the existing resisting arrest misdemeanor offense as
10 resisting arrest in the second degree.

11 SECTION 2. Chapter 710, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§710- Resisting arrest in the first degree. (1) A
15 person commits the offense of resisting arrest in the first
16 degree if the person intentionally uses or attempts to use force
17 to remove a firearm from the person of a law enforcement officer
18 while the law enforcement officer, acting under color of the law
19 enforcement officer's official authority, effects an arrest.

20 As used in this section, "firearm" has the same meaning as
21 in section 134-1.



1 (2) Resisting arrest in the first degree is a class C
2 felony."

3 SECTION 3. Section 710-1026, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§710-1026 Resisting arrest [-] in the second degree. (1)

6 A person commits the offense of resisting arrest in the second
7 degree if the person intentionally prevents a law enforcement
8 officer acting under color of the law enforcement officer's
9 official authority from effecting an arrest by:

10 (a) Using or threatening to use physical force against the
11 law enforcement officer or another; or

12 (b) Using any other means [~~creating~~] that creates a
13 substantial risk of causing bodily injury to the law
14 enforcement officer or another.

15 (2) Resisting arrest in the second degree is a
16 misdemeanor."

17 SECTION 4. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

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



1 SECTION 6. This Act shall take effect on January 7, 2059.



Report Title:

Resisting Arrest in the First Degree

Description:

Creates the offense of resisting arrest in the first degree as a class C felony. Amends the existing resisting arrest misdemeanor offense to resisting arrest in the second degree. Takes effect on 1/7/2059. (SD1)

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