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# 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 rates of assault and violence against  
2 health care workers in Hawaii are rising. A 2017 survey of  
3 hospitals, nursing homes, and home health care agencies, found a  
4 record number of one thousand seventy-five incidents of assault  
5 against workers in those establishments and home health care  
6 workers in patients' homes. In thirty-nine per cent of those  
7 cases, the local police department was contacted, with the  
8 remainder being handled by the establishment's security  
9 department.

10           The average costs incurred by hospitals for incidents  
11 relating to violence against their health care workers amounted  
12 to \$258,000 per year. These costs include worker's compensation  
13 benefits costs, direct medical expenses, time off from work for  
14 recovery, and absenteeism costs. However, it is likely that  
15 this cost estimate is vastly underreported, in large part  
16 because of the difficulty in tracking the full costs for each  
17 individual who faced violence in the workplace and for their



1 family. The American Hospital Association found that hospitals  
2 nationally spend \$4,700,000,000 a year to provide security at  
3 their facilities. According to the American Hospital  
4 Association report, hospitals also spend annually:

- 5 (1) \$175,000,000 training health care staff in violence  
6 prevention and de-escalation;
- 7 (2) \$98,000,000 developing a violence prevention plan;
- 8 (3) \$42,000,000 on medical care and compensation for lost  
9 wages; and
- 10 (4) \$91,000,000 in disability and absenteeism costs.

11 These amounts for annual costs do not include or account for the  
12 financial and emotional toll that assaults take on the  
13 individuals impacted and on the family members of these  
14 employees.

15 Between 2005 and 2014, reported rates of workplace violence  
16 in private hospitals increased by one hundred ten per cent  
17 nationally. A 2014 study found that seventy-six per cent of  
18 nurses were subject to violence or abuse over the course of a  
19 year. The same study found that, of the nurses who experienced  
20 violence or abuse in a year, most faced verbal abuse. However,  
21 almost a quarter of that group faced physical violence.



1           Being subjected to violence or abuse does not only affect  
2 nurses. Health care professionals, including physicians,  
3 physician assistants, allied health professionals, aides, home  
4 health care workers, and even volunteers, are at risk of  
5 violence from patients and visitors. According to the Bureau of  
6 Labor Statistics, the rates of nonfatal workplace violence  
7 against health care workers are from five to ten times higher  
8 than for workers overall. The rate of nonfatal workplace  
9 violence against all workers was 2.8 incidents per ten thousand  
10 workers. For hospital workers, the rate was 14.7 incidents per  
11 ten thousand workers and for nursing and residential workers,  
12 the rate was an astonishing 35.3 incidents per ten thousand  
13 workers.

14           Like other existing protected classes, health care workers  
15 are particularly vulnerable to attack. Hospitals, nursing  
16 homes, and other facilities are generally public spaces where  
17 almost anyone can enter. Home health care workers and case  
18 managers are particularly at-risk because they typically enter a  
19 patient's home without backup or security of any kind. The lack  
20 of current protections for health care workers exposed to abuse  
21 and violence is having a debilitating impact on health care



1 workers. Providing sufficient protections in the law will help  
2 to improve the morale of the health care workforce and retain  
3 health care workers in an employment sector that is experiencing  
4 shortages due to a very competitive labor market.

5 Ensuring the safety of the health care workforce is not  
6 only important for employees, but also important for everyone  
7 who needs the services of the health care workforce. Any  
8 facility, institution, or health care setting should be a safe  
9 environment for everyone in the community, patients, visitors,  
10 and health care workers alike.

11 All health care workers should be included in the  
12 protections currently afforded to other workers who are  
13 vulnerable to attack, not just those in the emergency room.  
14 Currently, the charge for assaulting a health care worker in  
15 Hawaii is a misdemeanor, which often means that perpetrators do  
16 not receive a satisfactory penalty, if any at all. If the  
17 potential charge is a felony, then attacks against health care  
18 workers will be taken more seriously. Classifying attacks on  
19 health care workers as assault in the second degree will bring  
20 parity under the law for this vulnerable class and protect all  
21 health care workers as emergency service workers are protected.



1           The legislature finds that extending protections for health  
2 care workers is in the best interest of the community, and will  
3 assist in retaining needed health care professionals and provide  
4 needed protections for vulnerable employees. Further, by  
5 including health care workers in the current statute relating to  
6 the offense of assault in the second degree, ensures that only  
7 those individuals who are capable of forming an intent to cause  
8 substantial bodily injury to a health care worker are included.  
9 Notably, eight other states consider assault against any  
10 healthcare worker a felony.

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

13           "**§707-711 Assault in the second degree.** (1) A person  
14 commits the offense of assault in the second degree if:

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

17           (b) The person recklessly causes serious bodily injury to  
18 another;

19           (c) The person intentionally or knowingly causes bodily  
20 injury to a correctional worker, as defined in section



- 1           710-1031(2), who is engaged in the performance of duty  
2           or who is within a correctional facility;
- 3           (d) The person intentionally or knowingly causes bodily  
4           injury to another with a dangerous instrument;
- 5           (e) The person intentionally or knowingly causes bodily  
6           injury to an educational worker who is engaged in the  
7           performance of duty or who is within an educational  
8           facility. For the purposes of this paragraph,  
9           "educational worker" means any administrator,  
10          specialist, counselor, teacher, or employee of the  
11          department of education or an employee of a charter  
12          school; a person who is a volunteer, as defined in  
13          section 90-1, in a school program, activity, or  
14          function that is established, sanctioned, or approved  
15          by the department of education; or a person hired by  
16          the department of education on a contractual basis and  
17          engaged in carrying out an educational function;
- 18          (f) The person intentionally or knowingly causes bodily  
19          injury to any emergency medical services provider who  
20          is engaged in the performance of duty. For the  
21          purposes of this paragraph, "emergency medical



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

19 (h) The person intentionally or knowingly causes bodily  
20 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; [~~or~~]
- 9 (i) The person intentionally or knowingly causes bodily  
10 injury to any firefighter or water safety officer who  
11 is engaged in the performance of duty. For the  
12 purposes of this paragraph, "firefighter" has the same  
13 meaning as in section 710-1012 and "water safety  
14 officer" means any public servant employed by the  
15 United States, the State, or any county as a lifeguard  
16 or person authorized to conduct water rescue or ocean  
17 safety functions[-];
- 18 (j) The person intentionally or knowingly causes bodily  
19 injury to a person who is engaged in the performance  
20 of duty at a health care facility as defined in  
21 section 323D-2. For purposes of this paragraph, "a



1           person who is engaged in the performance of duty at a  
2           health care facility" shall include health care  
3           professionals as defined in section 451D-2,  
4           administrators, students, volunteers, and any other  
5           workers who support the functions of the health care  
6           facility;

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

11           (l) The person intentionally or knowingly causes bodily  
12           injury to a person employed or contracted to work by a  
13           mutual benefit society, as defined in section 432:1-  
14           104, who provides case management services to an  
15           individual in a hospital or in the home who is engaged  
16           in the performance of duty."

17           SECTION 3. 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 4. Statutory material to be repealed is bracketed  
21           and stricken. New statutory material is underscored.



# H.B. NO. 1906

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

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INTRODUCED BY:

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*Ray M. ...*

*Or*

*Brid Kobyak*

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JAN 18 2018



# H.B. NO. 1906

**Report Title:**

Health Care Worker; Intentionally Cause Bodily Injury; Felony  
Penalty

**Description:**

Makes intentionally or knowingly causing bodily injury to a  
health care worker a Class C felony.

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not legislation or evidence of legislative intent.*

