
A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

1 SECTION 1. The purpose of this Act is to clarify the
2 offense of trespassing on public housing property.

3 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is
4 amended by adding a new section to part I to be appropriately
5 designated and to read as follows:

6 "§356D- Closed to the public. (a) Any area within a
7 housing project that is not a public street, road, highway,
8 sidewalk, or county or state bus stop, shall be closed to the
9 public where signs are displayed that read: "Closed to the
10 Public - No Trespassing", or a substantially similar message;
11 provided that the signs:

- 12 (1) Contain letters no less than two inches in height; and
13 (2) Are placed at reasonable intervals no less than three
14 signs to a mile along the boundary line of the areas
15 that are closed to the public and at all entrances to
16 the property, in a manner and position to be clearly
17 noticeable from outside the boundary line.

18 (b) For the purposes of this section:



1 "Housing project" means a public housing project, elder or
2 elderly housing, as defined in section 356D-1, or state low-
3 income housing project, as defined in section 356D-51."

4 SECTION 3. Section 708-814, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§708-814 Criminal trespass in the second degree.** (1) A
7 person commits the offense of criminal trespass in the second
8 degree if:

9 (a) The person knowingly enters or remains unlawfully in
10 or upon premises that are enclosed in a manner
11 designed to exclude intruders or are fenced;

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

20 For the purposes of this paragraph, "reasonable
21 warning or request" means a warning or request



1 communicated in writing at any time within a one-year
2 period inclusive of the date the incident occurred,
3 which may contain but is not limited to the following
4 information:

5 (i) A warning statement advising the person that the
6 person's presence is no longer desired on the
7 property for a period of one year from the date
8 of the notice, that a violation of the warning
9 will subject the person to arrest and prosecution
10 for trespassing pursuant to this subsection, and
11 that criminal trespass in the second degree is a
12 petty misdemeanor;

13 (ii) The legal name, any aliases, and a photograph, if
14 practicable, or a physical description, including
15 but not limited to sex, racial extraction, age,
16 height, weight, hair color, eye color, or any
17 other distinguishing characteristics of the
18 person warned;

19 (iii) The name of the person giving the warning along
20 with the date and time the warning was given; and

- 1 (iv) The signature of the person giving the warning,
2 the signature of a witness or police officer who
3 was present when the warning was given and, if
4 possible, the signature of the violator;
- 5 (c) The person enters or remains unlawfully on
6 agricultural lands without the permission of the owner
7 of the land, the owner's agent, or the person in
8 lawful possession of the land, and the agricultural
9 lands:
- 10 (i) Are fenced, enclosed, or secured in a manner
11 designed to exclude intruders;
- 12 (ii) Have a sign or signs displayed on the unenclosed
13 cultivated or uncultivated agricultural land
14 sufficient to give notice and reading as follows:
15 "Private Property" or "Government Property - No
16 Trespassing". The sign or signs, containing
17 letters no less than two inches in height, shall
18 be placed at reasonable intervals no less than
19 three signs to a mile along the boundary line of
20 the land and at roads and trails entering the



1 land in a manner and position as to be clearly
2 noticeable from outside the boundary line; or
3 (iii) At the time of entry, are fallow or have a
4 visible presence of livestock or a crop:
5 (A) Under cultivation;
6 (B) In the process of being harvested; or
7 (C) That has been harvested;
8 (d) The person enters or remains unlawfully on unimproved
9 or unused lands without the permission of the owner of
10 the land, the owner's agent, or the person in lawful
11 possession of the land, and the lands:
12 (i) Are fenced, enclosed, or secured in a manner
13 designed to exclude the general public; or
14 (ii) Have a sign or signs displayed on the unenclosed,
15 unimproved, or unused land sufficient to give
16 reasonable notice and reads as follows: "Private
17 Property - No Trespassing", "Government Property
18 - No Trespassing", or a substantially similar
19 message; provided that the sign or signs shall
20 contain letters no less than two inches in height
21 and shall be placed at reasonable intervals no

1 less than three signs to a mile along the
2 boundary line of the land and at roads and trails
3 entering the land in a manner and position as to
4 be clearly noticeable from outside the boundary
5 line.

6 For the purposes of this paragraph, "unimproved
7 or unused lands" means any land upon which there is no
8 improvement; construction of any structure, building,
9 or facility; or alteration of the land by grading,
10 dredging, or mining that would cause a permanent
11 change in the land or that would change the basic
12 natural condition of the land. Land remains
13 "unimproved or unused land" under this paragraph
14 notwithstanding minor improvements, including the
15 installation or maintenance of utility poles, signage,
16 and irrigation facilities or systems; minor
17 alterations undertaken for the preservation or prudent
18 management of the unimproved or unused land, including
19 the installation or maintenance of fences, trails, or
20 pathways; maintenance activities, including forest
21 plantings and the removal of weeds, brush, rocks,

1 boulders, or trees; and the removal or securing of
2 rocks or boulders undertaken to reduce risk to
3 downslope properties; or
4 (e) ~~[The person enters or remains unlawfully in or upon~~
5 ~~the premises of any public housing project or state~~
6 ~~low income housing project, as defined in section~~
7 ~~356D 1, 356D 51, or 356D 91, after a reasonable~~
8 ~~warning or request to leave by housing authorities or~~
9 ~~a police officer, based upon an alleged violation of~~
10 ~~law or administrative rule; provided that a warning or~~
11 ~~request to leave shall not be necessary between 10:00~~
12 ~~p.m. and 5:00 a.m. at any public housing project or~~
13 ~~state low income housing project that is closed to the~~
14 ~~public during those hours and has signs, containing~~
15 ~~letters no less than two inches in height, placed at~~
16 ~~reasonable intervals no less than three signs to a~~
17 ~~mile along the boundary of the project property and at~~
18 ~~all entrances to the property, in a manner and~~
19 ~~position to be clearly noticeable from outside the~~
20 ~~boundary of the project property and to give~~
21 ~~sufficient notice that the public housing project or~~



1 ~~state low income housing project is closed to the~~
2 ~~public during those hours.]~~ The person enters or
3 remains unlawfully in or upon any area of a housing
4 project that is closed to the public pursuant to
5 section 356D- and meets the signage requirements of
6 section 356D- , or the person enters or remains
7 unlawfully in or upon any property that is subject to
8 section 356D- and meets the signage requirements of
9 section 356D- after a reasonable warning or request
10 to leave by the housing authority or law enforcement
11 officer, as defined in section 710-1000, based upon an
12 alleged violation of law or administrative rule,
13 notwithstanding any invitation or authorization
14 provided to the person by a tenant of that housing
15 project or a member of that tenant's household.

16 As used in this paragraph:

17 "Housing authority" means a property manager,
18 resident manager, tenant monitors, security guards, or
19 others officially designated by the Hawaii public
20 housing authority, for the housing project.



1 "Housing project" means a public housing project,
2 or elder or elderly housing as defined in section
3 356D-1, or state low-income housing project as defined
4 in section 356D-51.

5 "Reasonable warning or request" means a warning
6 or request communicated in writing at any time within
7 a one-year period inclusive of the date the incident
8 occurred, which may contain but is not limited to the
9 following information:

- 10 (i) A warning statement advising the person that
- 11 for a period of one year from the date of
- 12 the notice, the person's presence is no
- 13 longer desired in or on the areas of the
- 14 subject housing project that are closed to
- 15 the public, that a violation of the warning
- 16 will subject the person to arrest and
- 17 prosecution for trespassing pursuant to this
- 18 subsection, and that criminal trespass in
- 19 the second degree is a petty misdemeanor;
- 20 (ii) The legal name, any aliases, and a
- 21 photograph, if practicable, or a physical

1 description, including but not limited to
2 sex, racial extraction, age, height, weight,
3 hair color, eye color, or any other
4 distinguishing characteristics of the person
5 warned;

6 (iii) The name of the person giving the warning
7 along with the date and time the warning was
8 given;

9 (iv) The signature of the person giving the
10 warning and, if possible, the signature of
11 the violator; and

12 (v) The name and signature of a witness or law
13 enforcement officer, as defined in section
14 710-1000, who was present when the warning
15 was given.

16 (2) Subsection (1) shall not apply to a process server who
17 enters or remains in or upon the land or premises of another,
18 unless the land or premises are secured with a fence and locked
19 gate, for the purpose of making a good faith attempt to perform
20 [~~their~~] the process server's legal duties and to serve process
21 upon any of the following:

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

2 (b) An agent of the owner or occupant of the land or
3 premises; or

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

5 For the purposes of this subsection, "process server" means
6 any person authorized under the Hawaii rules of civil procedure,
7 district court rules of civil procedure, Hawaii family court
8 rules, or section 353C-10 to serve process.

9 ~~[(3) As used in this section:~~

10 ~~"Housing authorities" means resident managers or managers,~~
11 ~~tenant monitors, security guards, or others officially~~
12 ~~designated by the Hawaii public housing authority.~~

13 ~~"Process server" means any person authorized under the~~
14 ~~Hawaii rules of civil procedure, district court rules of civil~~
15 ~~procedure, Hawaii family court rules, or section 353C-10 to~~
16 ~~serve process.~~

17 ~~+(4)]~~ (3) Criminal trespass in the second degree is a petty
18 misdemeanor."

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



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Hawaii Public Housing Authority; Criminal Trespass

Description:

Provides that certain areas within Hawaii Public Housing Authority housing projects are closed to the public and amends criminal trespass in the second degree to permit the prosecution of an unauthorized entry or a violation of a written prohibition to enter into the subject housing projects. Clarifies requirements for signage notifying trespassers of illegal entry. (HB2359 CD1)

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