THE SENATE
THIRTIETH LEGISLATURE, 2020
STATE OF HAWAII

JAN 3 2020

S.B. NO. 3044

A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST HEALTH CARE SECURITY PROFESSIONALS.

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

SECTION 1. The legislature finds that, according to the
National Institute for Occupational Safety and Health division
of the Centers for Disease Control and Prevention, "[w]orkplace
violence is the act or threat of violence, ranging from verbal
abuse to physical assaults directed toward persons at work or on
duty. The impact of workplace violence can range from
psychological issues to physical injury, or even death.
Violence can occur in any workplace and among any type of
worker, but the risk of fatal violence is greater for workers in
sales, protective services, and transportation, while the risk
for nonfatal violence resulting in days away from work is
greatest for healthcare and social assistance workers."

A study released by the United States Office of
Occupational Safety and Health Administration (OSHA) found that
from 2002 to 2013, incidents of serious workplace violence
(those requiring days off for the injured worker to recuperate)
were four times more common in health care than in private
industry on average. Workers in hospitals, nursing homes, and other health care settings face significant risks of workplace violence. OSHA also found that health care accounts for nearly as many serious violent injuries as all other industries combined. However, many assaults or threats are unreported. This is, in part, due to the unique cultural factors of healthcare. For example, a health care staff member may feel a professional and ethical duty to "do no harm" to patients. For health care security professionals, who put their own safety and health at risk to intervene during incidences of violence at a health care facility, the occurrence of violence may be considered a part of the job.

Under existing law, health care security professionals are not included as one of the protected categories of health care professionals who may press felony charges when they are assaulted while performing the duties of their profession. Health care security professionals are unarmed and do not lay hands on patients unless directed to do so by clinical staff. At The Queen's Medical Center in 2018, there were over twenty-five assault-related dispatch calls to the medical center's security team; nineteen resulted in calls to the Honolulu Police
Department, and five of them involved an assault on a health care security professional. These incidents did not involve patients with behavioral health issues and reflect a disturbing trend of workplace violence against those in health care facilities. Although assault-related dispatches account for only a small portion of the thousands of dispatches for which The Queen's Medical Center security team responds on an annual basis, the severity of violent incidents has increased.

To create workplaces that protect and support staff, local health care facilities have been working towards implementing policies and programs that promote workplace violence prevention, broader safety and health objectives, and build upon a "culture of safety". Hospitals like The Queen's Medical Center have voluntarily implemented comprehensive policies and procedures for workplace violence prevention, collecting data of incidents on campus to improve quality and safety, and currently provides specific training and certification for health care security professionals that are aligned with the guidelines from the International Association for Healthcare Security and Safety.
The legislature therefore finds that health care workers, including health care security professionals, are at an increased risk for workplace violence, in part due to the unique challenges of their job. Additionally, health care security professionals play a critical role for the health care team. Health care security professionals are specifically trained to deescalate the situation, are unarmed, and do not lay hands on patients unless directed to do so by clinical staff, and therefore, they are at risk of sustaining violent injuries due to the nature of their profession.

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

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

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

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

(b) The person recklessly causes serious bodily injury to another;
(c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;

(d) The person intentionally or knowingly causes bodily injury to another with a dangerous instrument;

(e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education or an employee of a charter school; a person who is a volunteer, as defined in section 90-1, in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function;

(f) The person intentionally or knowingly causes bodily injury to any emergency medical services provider who
is engaged in the performance of duty. For the purposes of this paragraph, "emergency medical services provider" means emergency medical services personnel, as defined in section 321-222, and physicians, physician's assistants, nurses, nurse practitioners, certified registered nurse anesthetists, respiratory therapists, laboratory technicians, radiology technicians, and social workers, providing services in the emergency room of a hospital;

(g) The person intentionally or knowingly causes bodily injury to a person employed at a state-operated or -contracted mental health facility. For the purposes of this paragraph, "a person employed at a state-operated or -contracted mental health facility" includes health care professionals as defined in section 451D-2, administrators, orderlies, security personnel, volunteers, and any other person who is engaged in the performance of a duty at a state-operated or -contracted mental health facility;
(h) The person intentionally or knowingly causes bodily injury to a person who:

(i) The defendant has been restrained from, by order of any court, including an ex parte order, contacting, threatening, or physically abusing pursuant to chapter 586; or

(ii) Is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order;

(i) The person intentionally or knowingly causes bodily injury to any firefighter or water safety officer who is engaged in the performance of duty. For the purposes of this paragraph, "firefighter" has the same meaning as in section 710-1012 and "water safety officer" means any public servant employed by the United States, the State, or any county as a lifeguard or person authorized to conduct water rescue or ocean safety functions;

(j) The person intentionally or knowingly causes bodily injury to a person who is engaged in the performance
of duty at a health care facility as defined in section 323D-2. For purposes of this paragraph, "a person who is engaged in the performance of duty at a health care facility" shall include health care professionals as defined in section 451D-2, physician assistants, surgical assistants, advanced practice registered nurses, nurse aids, respiratory therapists, laboratory technicians, and health care security professionals. For purposes of this paragraph, "health care security professional" means an individual employed by a health care facility as defined in section 323D-2 who has received training or certification specifically designed for health care security and safety;

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

(1) The person intentionally or knowingly causes bodily injury to a person, employed or contracted to work by
a mutual benefit society, as defined in section 432:1-104, to provide case management services to an individual in a hospital, health care provider's office, or home, while that person is engaged in the performance of those services."

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

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

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

INTRODUCED BY: [Signature]

[Signature]
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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