

JAN 23 2015

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# 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 the past, such an offender may have been charged  
5       with the offense of attempted theft or attempted escape but not  
6       prosecuted because the actions in question do not fulfill the  
7       requisite elements of theft or escape statutes: the offender is  
8       not trying to deprive the officer permanently of the officer's  
9       weapon as is required by the theft statute nor is the offender  
10      attempting to get away from the officer as required by the  
11      escape statute. Rather, the offender is often trying to  
12      temporarily disarm the law enforcement officer.

13      Officers frequently wrestle with offenders while trying to  
14      make an arrest, which places their firearms in close proximity  
15      to the offender's grasp. This is a very dangerous situation for  
16      the law enforcement officer and the offender because a gun in



1 close quarters can discharge and seriously injure or kill the  
2 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 personnel.

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 prevents a law enforcement  
17 officer acting under color of the law enforcement officer's  
18 official authority from effecting an arrest by removing or  
19 attempting to remove a firearm from the person of a law  
20 enforcement officer.



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

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

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

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

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

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

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

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

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 Statutory material to be repealed is bracketed and stricken.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



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Will Zygo

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# S.B. NO. 680

**Report Title:**

Penal Code; Resisting Arrest

**Description:**

Establishes the offense of resisting arrest in the first degree as a felony and reclassifies the existing resisting arrest misdemeanor offense as resisting arrest in the second degree.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

