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# 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 to part I a new section 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:

# H.B. NO. 2359

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  
22       communicated in writing at any time within a one-year

1 period inclusive of the date the incident occurred,  
2 which may contain but is not limited to the following  
3 information:

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

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

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

20 (iv) The signature of the person giving the warning,  
21 the signature of a witness or police officer who

1                   was present when the warning was given and, if  
2                   possible, the signature of the violator;

3       (c) The person enters or remains unlawfully on  
4       agricultural lands without the permission of the owner  
5       of the land, the owner's agent, or the person in  
6       lawful possession of the land, and the agricultural  
7       lands:

8       (i) Are fenced, enclosed, or secured in a manner  
9       designed to exclude intruders;

10       (ii) Have a sign or signs displayed on the unenclosed  
11       cultivated or uncultivated agricultural land  
12       sufficient to give notice and reading as  
13       follows: "Private Property" or "Government  
14       Property - No Trespassing". The sign or signs,  
15       containing letters no less than two inches in  
16       height, shall be placed at reasonable intervals  
17       no less than three signs to a mile along the  
18       boundary line of the land and at roads and trails  
19       entering the land in a manner and position as to  
20       be clearly noticeable from outside the boundary  
21       line; or

(iii) At the time of entry, are fallow or have a visible presence of livestock or a crop:

(A) Under cultivation;

(B) In the process of being harvested; or

(C) That has been harvested;

(d) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:

(i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or

(ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property - No Trespassing", "Government Property - No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters no less than two inches in height and shall be placed at reasonable intervals no less than three signs to a mile along the boundary line of the land and at roads and trails entering the land in a manner and position as to

1           be clearly noticeable from outside the boundary  
2           line.

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

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

18           (i) Unlawfully in or upon any area of a housing  
19           project that is closed to the public as set forth  
20           in section 356D- , and has signage required by  
21           section 356D- ; or

1        (ii) In any area of a housing project that is closed  
2                    to the public as set forth in section 356D- ,  
3                    and has signage required by section 356D- ,  
4                    after a reasonable warning or request to leave  
5                    that housing project by the housing authority or  
6                    a law enforcement officer as defined in section  
7                    710-1000, based upon an alleged violation of law  
8                    or administrative rule, notwithstanding any  
9                    invitation or authorization provided to the  
10                   person by a tenant or member of tenant's  
11                   household of that housing project.

12        As used in this paragraph:

13                   "Housing authority" means a property manager,  
14                   resident manager, tenant monitors, security guards, or  
15                   others officially designated by the Hawaii public  
16                   housing authority, for the housing project.

17                   "Housing project" means a public housing project,  
18                   or elder or elderly housing as defined in section  
19                   356D-1, or state low-income housing project as defined  
20                   in section 356D-51.

21                   "Reasonable warning or request" means a warning  
22                   or request communicated in writing at any time within



1        a one-year period inclusive of the date the incident  
2        occurred, which may contain but is not limited to the  
3        following information:

4            (i) A warning statement advising the person that  
5                for a period of one year from the date of  
6                the notice, the person's presence is no  
7                longer desired in or on the areas of the  
8                subject housing project that are closed to  
9                the public, that a violation of the warning  
10              will subject the person to arrest and  
11              prosecution for trespassing pursuant to  
12              paragraph (e), and that criminal trespass in  
13              the second degree is a petty misdemeanor;

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

1            (iii) The name of the person giving the warning  
 2            along with the date and time the warning was  
 3            given;

4            (iv) The signature of the person giving the  
 5            warning and, if possible, the signature of  
 6            the violator; and

7            (v) The name and signature of a witness or law  
 8            enforcement officer as defined in section  
 9            710-1000 who was present when the warning  
 10           was given pursuant to paragraph (e).

11           (2) Subsection (1) shall not apply to a process server who  
 12 enters or remains in or upon the land or premises of another,  
 13 unless the land or premises are secured with a fence and locked  
 14 gate, for the purpose of making a good faith attempt to perform  
 15 their legal duties and to serve process upon any of the  
 16 following:

- 17           (a) An owner or occupant of the land or premises;
- 18           (b) An agent of the owner or occupant of the land or
- 19                  premises; or
- 20           (c) A lessee of the land or premises.

21           For the purposes of this subsection, "process server" means  
 22 any person authorized under the Hawaii rules of civil procedure,

1 district court rules of civil procedure, Hawaii family court  
2 rules, or section 353C-10 to serve process.

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

4 ~~"Housing authorities" means resident managers or managers,~~  
5 ~~tenant monitors, security guards, or others officially~~  
6 ~~designated by the Hawaii public housing authority.~~

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

11 ~~(4)]~~ (3) Criminal trespass in the second degree is a petty  
12 misdemeanor."

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


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

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

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20

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INTRODUCED BY: 

22

BY REQUEST

23

JAN 22 2018

# H.B. NO. 2359

1 **Report Title:**

2 Hawaii Public Housing Authority; Trespass

3

4 **Description:**

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

11

## JUSTIFICATION SHEET

DEPARTMENT: Hawaii Public Housing Authority (Human Services)

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

PURPOSE: To expressly provide that certain areas of the Hawaii Public Housing Authority (HPHA) housing projects are closed to the public. To amend criminal trespass in the second degree to permit the prosecution of any unauthorized entry into any closed HPHA project property or any violation of a written prohibition to enter such property.

MEANS: Add a new section to part I of chapter 356D and amend section 708-814, Hawaii Revised Statutes.

JUSTIFICATION: This measure will assist the HPHA to prosecute trespassers for unauthorized entry, or violation of a written prohibition to enter a housing project based on an unlawful act. The measure clarifies what property is closed to members of the public in a housing project. It defines what constitutes a "reasonable warning or request" to leave a housing project.

Impact on the public: There should be a positive impact on the public, including public housing tenants and their household members, by excluding unauthorized non-tenants from the housing project and provide for a safer living environment.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 220; HMS 229.

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.