

---

---

# 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.



1           **(b) For the purposes of this section:**

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

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

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

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

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



1           For the purposes of this paragraph, "reasonable  
2 warning or request" means a warning or request  
3 communicated in writing at any time within a one-year  
4 period inclusive of the date the incident occurred,  
5 which may contain but is not limited to the following  
6 information:

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

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



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



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



1           and shall be placed at reasonable intervals no  
2           less than three signs to a mile along the  
3           boundary line of the land and at roads and trails  
4           entering the land in a manner and position as to  
5           be clearly noticeable from outside the boundary  
6           line.

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



1 plantings and the removal of weeds, brush, rocks,  
 2 boulders, or trees; and the removal or securing of  
 3 rocks or boulders undertaken to reduce risk to  
 4 downslope properties; or

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



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

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

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  
18           paragraph (e), 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 pursuant to paragraph (e).

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 legal duties and to serve process upon any of the  
21 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 January 1, 2050.



**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 HD1)

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

