

JAN 19 2018

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 of no less than

14 three signs to a mile along the boundary line of the

15 areas that are closed to the public and at all

16 entrances to the property, in a manner and position to

17 be clearly noticeable from outside the boundary line.



1 (b) For the purposes of this section, "housing project"
2 means a public housing project or elder or elderly housing as
3 defined in section 356D-1, or state low-income housing project
4 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;



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

(iv) The signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator;

(c) The person enters or remains unlawfully on agricultural 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 agricultural lands:

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

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



1 ~~sufficient notice that the public housing project or~~
2 ~~state low income housing project is closed to the~~
3 ~~public during those hours.]~~ The person enters or
4 remains:

5 (i) Unlawfully in or upon any area of a housing
6 project that is closed to the public as set forth
7 in section 356D- and has signage required by
8 section 356D- ; or

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

21 As used in this paragraph:



1 "Housing authority" means a property manager,
2 resident manager, tenant monitors, security guards, or
3 others officially designated by the authority, for the
4 housing project.

5 "Housing project" means a public housing project
6 or elder or elderly housing as defined in section
7 356D-1, or state low-income housing project as defined
8 in section 356D-51.

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

14 (i) A warning statement advising the person that for
15 a period of one year from the date of the notice,
16 the person's presence is no longer desired in or
17 on the areas of the subject housing project that
18 are closed to the public, that a violation of the
19 warning will subject the person to arrest and
20 prosecution for trespassing pursuant to this



1 paragraph, and that criminal trespass in the
2 second degree is a petty misdemeanor;

3 (ii) The legal name, any aliases, and a photograph, if
4 practicable, or a physical description, including
5 but not limited to sex, racial extraction, age,
6 height, weight, hair color, eye color, or any
7 other distinguishing characteristics of the
8 person warned;

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

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

14 (v) The name and signature of a witness or law
15 enforcement officer as defined in section 710-
16 1000 who was present when the warning was given
17 pursuant to this paragraph.

18 (2) Subsection (1) shall not apply to a process server who
19 enters or remains in or upon the land or premises of another,
20 unless the land or premises are secured with a fence and locked
21 gate, for the purpose of making a good faith attempt to perform



1 their legal duties and to serve process upon any of the
2 following:

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

4 (b) An agent of the owner or occupant of the land or
5 premises; or

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

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

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

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

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

19 ~~(4)]~~ (3) Criminal trespass in the second degree is a petty
20 misdemeanor."



S.B. NO. 2422

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

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

6 SECTION 6. This Act shall take effect upon its approval.
7

INTRODUCED BY:

Will Eyo
Breene Hunt



S.B. NO. 2422

Report Title:

Hawaii Public Housing Authority; Trespass; Warning; Signage

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.

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