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## A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS ONTO STATE LANDS.

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

1           SECTION 1. Section 708-814, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§708-814 Criminal trespass in the second degree.** (1) A  
4 person commits the offense of criminal trespass in the second  
5 degree if:

6           (a) The person knowingly enters or remains unlawfully in  
7           or upon premises that are enclosed in a manner  
8           designed to exclude intruders or are fenced;

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



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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 be evidenced by a copy of the previously  
6 issued written warning or request, whether or not the  
7 copy is posted at the premises or retained by the  
8 county police department, and which may contain but is  
9 not limited to the following information:

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

18           (ii) The legal name, any aliases, and a photograph, if  
19 practicable, or a physical description, including  
20 but not limited to sex, racial extraction, age,  
21 height, weight, hair color, eye color, or any



1 other distinguishing characteristics of the  
2 person warned;

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

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

9 (c) The person enters or remains unlawfully on  
10 agricultural lands without the permission of the owner  
11 of the land, the owner's agent, or the person in  
12 lawful possession of the land, and the agricultural  
13 lands:

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

16 (ii) Have a sign or signs displayed on the unenclosed  
17 cultivated or uncultivated agricultural land  
18 sufficient to give notice and reading as follows:  
19 "Private Property" or "Government Property - No  
20 Trespassing". The sign or signs, containing  
21 letters no less than two inches in height, shall



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



1 message; provided that the sign or signs shall  
2 contain letters no less than two inches in height  
3 and shall be placed at reasonable intervals no  
4 less than three signs to a mile along the  
5 boundary line of the land and at roads and trails  
6 entering the land in a manner and position as to  
7 be clearly noticeable from outside the boundary  
8 line.

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



1 the installation or maintenance of fences, trails, or  
2 pathways; maintenance activities, including forest  
3 plantings and the removal of weeds, brush, rocks,  
4 boulders, or trees; and the removal or securing of  
5 rocks or boulders undertaken to reduce risk to  
6 downslope properties; or

7 (e) The person enters or remains unlawfully in or upon any  
8 area of a housing project that is closed to the public  
9 pursuant to section 356D-6.7 and meets the signage  
10 requirements of section 356D-6.7, or the person enters  
11 or remains unlawfully in or upon any property that is  
12 subject to section 356D-6.7 and meets the signage  
13 requirements of section 356D-6.7 after a reasonable  
14 warning or request to leave by the housing authority  
15 or law enforcement officer, as defined in section  
16 710-1000, based upon an alleged violation of law or  
17 administrative rule, notwithstanding any invitation or  
18 authorization provided to the person by a tenant of  
19 that housing project or a member of that tenant's  
20 household.

21 As used in this paragraph:



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1           "Housing authority" means a property manager,  
2           resident manager, tenant monitors, security guards, or  
3           others officially designated by the Hawaii public  
4           housing authority, for the 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  
15                         for a period of one year from the date of  
16                         the notice, the person's presence is no  
17                         longer desired in or on the areas of the  
18                         subject housing project that are closed to  
19                         the public, that a violation of the warning  
20                         will subject the person to arrest and  
21                         prosecution for trespassing pursuant to this



1 subsection, and that criminal trespass in  
2 the second degree is a petty misdemeanor;  
3 (ii) The legal name, any aliases, and a  
4 photograph, if practicable, or a physical  
5 description, including but not limited to  
6 sex, racial extraction, age, height, weight,  
7 hair color, eye color, or any other  
8 distinguishing characteristics of the person  
9 warned;  
10 (iii) The name of the person giving the warning  
11 along with the date and time the warning was  
12 given;  
13 (iv) The signature of the person giving the  
14 warning and, if possible, the signature of  
15 the violator; and  
16 (v) The name and signature of a witness or law  
17 enforcement officer, as defined in section  
18 710-1000, who was present when the warning  
19 was given.

20 (2) Subsection (1) shall not apply to a process server who  
21 enters or remains in or upon the land or premises of another,



1 unless the land or premises are secured with a fence and locked  
2 gate, for the purpose of making a good faith attempt to perform  
3 the process server's legal duties and to serve process upon any  
4 of the following:

- 5 (a) An owner or occupant of the land or premises;
- 6 (b) An agent of the owner or occupant of the land or  
7 premises; or
- 8 (c) A lessee of the land or premises.

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

13 (3) Criminal trespass in the second degree is a petty  
14 misdemeanor.

15 (4) The facts and circumstances to be considered in  
16 establishing the offense of criminal trespass in the second  
17 degree may include photographs, video recordings, or other  
18 recordings that show the commission of the offense and can be  
19 authenticated by one or more witnesses."

20 SECTION 2. Section 708-814.7, Hawaii Revised Statutes, is  
21 amended to read as follows:



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1           "~~§~~708-814.7~~§~~ **Criminal trespass onto state lands.** (1)

2 Except for lands owned by the office of Hawaiian affairs, and  
3 except for improved state lands that are designated safe havens  
4 by state departments or agencies, or that are under executive  
5 order by the governor to be used as a safe haven and have a  
6 department of health component and adequate space, not to  
7 include state hospitals, a person commits the offense of  
8 criminal trespass onto state lands if:

9           (a) The person enters or remains unlawfully in or upon any  
10 improved state land when:

11           (i) The land is closed to public use and its closure  
12 hours are posted on a sign or signs on the  
13 improved state land, and after a request to leave  
14 is made by any law enforcement officer the person  
15 remains in or upon the land; or

16           (ii) The land is not open to the public and there are  
17 signs that are sufficient to give reasonable  
18 notice that read: "Government Property - No  
19 Trespassing"; provided that these signs shall  
20 contain letters no less than two inches in height  
21 and shall be placed at reasonable intervals no



1           less than three signs to a mile along the  
2           boundary line of the land and at all roads and  
3           trails entering the land in a manner and position  
4           as to be clearly noticeable from outside the  
5           boundary; or

6           (b) The person enters or remains unlawfully in or upon any  
7           state land on or under any highway, and the state land  
8           has a sign or signs displayed upon the land that are  
9           sufficient to give reasonable notice that read:

10           "Government Property - No Trespassing"; provided that  
11           the signs shall contain letters no less than two  
12           inches in height and shall be placed at reasonable  
13           intervals no less than three signs to a mile along the  
14           boundary line of the land and at all roads and trails  
15           entering the land in a manner and position as to be  
16           clearly noticeable from outside the boundary.

17           (2) Criminal trespass onto state lands is a petty  
18           misdemeanor.

19           (3) The facts and circumstances to be considered in  
20           establishing the offense of criminal trespass onto state lands  
21           may include photographs, video recordings, or other recordings



1 that show the commission of the offense and can be authenticated  
2 by one or more witnesses.

3 [~~3~~] (4) For the purposes of this section, unless the  
4 context requires otherwise:

5 "Highway" has the same meaning as in section 286-2.

6 "Improved state land" means any state land, including but  
7 not limited to harbors under the care and control of the  
8 department of transportation under chapter 266, and small boat  
9 harbors under the care and control of the department of land and  
10 natural resources under chapter 200, upon which there is  
11 improvement, including any structure, building, or facility; or  
12 alteration of the land by grading, dredging, or mining that  
13 would cause a permanent change in the land or that would change  
14 the basic natural condition of the land. Land is not "improved  
15 state land" if it only has minor improvements, including utility  
16 poles, signage, and irrigation facilities or systems; or minor  
17 alterations undertaken for the preservation or prudent  
18 management of the unimproved or unused land, including fences,  
19 trails, or pathways. Land is not "improved state land" solely  
20 due to the performance of state maintenance activities on the  
21 land, including forest plantings and the removal of weeds,



1 brush, rocks, boulders, or trees; or removal or securing of  
2 rocks or boulders undertaken to reduce risk to downslope  
3 properties.

4 "State lands" means all land owned by the State through any  
5 of its departments or agencies.

6 [~~4~~] (5) No conviction under this section shall be used  
7 to establish a felony conviction under section 708-803."

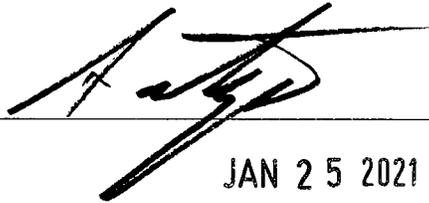
8 SECTION 3. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

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

13 SECTION 5. This Act shall take effect upon its approval.

14

INTRODUCED BY:

  
\_\_\_\_\_  
JAN 25 2021



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**Report Title:**

Criminal Trespass; Evidence; Video Recordings

**Description:**

Provides that the facts and circumstances to be considered in establishing the offenses of criminal trespass in the second degree and criminal trespass on state lands may include authenticated photographs, video recordings, or other recordings that show the commission of the offense.

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

