

S.B. NO. 1382

JAN 23 2025

A BILL FOR AN ACT

RELATING TO THE NATIONAL GUARD.

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

SECTION 1. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of assault in the second degree if the person:

(a) Intentionally, knowingly, or recklessly causes

substantial bodily injury to another;

(b) Recklessly causes serious bodily injury to another;

(c) Intentionally or knowingly causes bodily injury to a

correctional worker, as defined in section 710-

1031(2), who is engaged in the performance of duty or

who is within a correctional facility;

(d) Intentionally or knowingly causes bodily injury to

another with a dangerous instrument;

(e) Intentionally or knowingly causes bodily injury to an

educational worker who is engaged in the performance

of duty or who is within an educational facility. For

the purposes of this paragraph, "educational worker"

means any administrator, specialist, counselor,

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teacher, or employee of the department of education or an employee of a charter school; a person who is a volunteer, as defined in section 90-1, in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function;

(f) Intentionally or knowingly causes bodily injury to any emergency medical services provider who is engaged in the performance of duty. For the purposes of this paragraph, "emergency medical services provider" means emergency medical services personnel, as defined in section 321-222, and physicians, physician's assistants, nurses, nurse practitioners, certified registered nurse anesthetists, respiratory therapists, laboratory technicians, radiology technicians, and social workers, providing services in the emergency room of a hospital;

(g) Intentionally or knowingly causes bodily injury to a person employed at a state-operated or -contracted mental health facility. For the purposes of this

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1 paragraph, "a person employed at a state-operated or -
2 contracted mental health facility" includes health
3 care professionals as defined in section 451D-2,
4 administrators, orderlies, security personnel,
5 volunteers, and any other person who is engaged in the
6 performance of a duty at a state-operated or -
7 contracted mental health facility;

8 (h) Intentionally or knowingly causes bodily injury to a
9 person who:

10 (i) The defendant has been restrained from, by order
11 of any court, including an ex parte order,
12 contacting, threatening, or physically abusing
13 pursuant to chapter 586; or

14 (ii) Is being protected by a police officer ordering
15 the defendant to leave the premises of that
16 protected person pursuant to section 709-906(4),
17 during the effective period of that order;

18 (i) Intentionally or knowingly causes bodily injury to any
19 firefighter or water safety officer who is engaged in
20 the performance of duty. For the purposes of this
21 paragraph, "firefighter" has the same meaning as in
22 section 710-1012 and "water safety officer" means any

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1 public servant employed by the United States, the
2 State, or any county as a lifeguard or person
3 authorized to conduct water rescue or ocean safety
4 functions;

5 (j) Intentionally or knowingly causes bodily injury to a
6 person who is engaged in the performance of duty at a
7 health care facility as defined in section 323D-2.

8 For purposes of this paragraph, "a person who is
9 engaged in the performance of duty at a health care
10 facility" includes health care professionals as
11 defined in section 451D-2, physician assistants,
12 surgical assistants, advanced practice registered
13 nurses, nurse aides, respiratory therapists,
14 laboratory technicians, and radiology technicians;

15 (k) Intentionally or knowingly causes bodily injury to a
16 person who is engaged in providing home health care
17 services, as defined in section 431:10H-201;

18 (l) Intentionally or knowingly causes bodily injury to a
19 person, employed or contracted to work by a mutual
20 benefit society, as defined in section 432:1-104, to
21 provide case management services to an individual in a
22 hospital, health care provider's office, or home,

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1 while that person is engaged in the performance of
2 those services;

3 (m) Intentionally or knowingly causes bodily injury to a
4 person who is sixty years of age or older and the age
5 of the injured person is known or reasonably should be
6 known to the person causing the injury; [~~or~~]

7 (n) Intentionally or knowingly causes bodily injury to a
8 sports official who is engaged in the lawful discharge
9 of the sports official's duties. For the purposes of
10 this paragraph, "sports official" and "lawful
11 discharge of the sports official's duties" have the
12 same meaning as in section 706-605.6 [~~-~~]; or

13 (o) Intentionally or knowingly causes bodily injury to a
14 national guard member who is engaged in the
15 performance of duty. For purposes of this paragraph,
16 "national guard member" means a member of the national
17 guard on any duty or service done under or in
18 pursuance of an order or call of the governor or the
19 President of the United States or any proper authority
20 as provided by law."

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

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Wm. D. M.

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BY REQUEST

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Report Title:

Militia; National Guard; Assault in the Second Degree

Description:

Specifies that intentionally or knowingly causing bodily injury to a national guard member in the performance of duty is a class C felony.

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

JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO THE NATIONAL GUARD.

PURPOSE: To provide added protection for Hawaii National Guard (HING) members and National Guard members from other states in service to the State of Hawaii.

MEANS: Amend section 707-711, Hawaii Revised Statutes (HRS).

JUSTIFICATION: This bill creates a protected status for National Guard personnel in service to the State by making it a class C felony when an individual intentionally or knowingly causes bodily injury to HING or National Guard members of other states in service to the State of Hawaii.

National Guard personnel are being pushed to the forefront of civil disturbances by local law enforcement due to capacity issues, particularly during state emergencies. The current legal protection for National Guard personnel who are engaged in the performance of duty is to charge belligerent individuals who intentionally or knowingly cause bodily injury with a misdemeanor crime. This provides no real deterrent effect for criminal misconduct.

As National Guard personnel continue to serve in law enforcement and other capacities in support of the State, they should receive similar protections as law enforcement such that intentional or deliberate acts causing bodily injury to National Guard personnel should be classified as a class C felony.

Impact on the public: Making national guard service members a protected status under section 707-711, HRS will provide a measure

of safety when the HING or National Guard members from other states respond to state disasters and emergencies.

Impact on the department and other agencies:

Positive impact to the Department of Defense's recruiting and retention and response posture. There is no known negative impact to other departments.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: DEF 116.

OTHER AFFECTED
AGENCIES: Department of the Attorney General;
Department of Law Enforcement; Judiciary;
county police departments; county
prosecutor's offices.

EFFECTIVE DATE: Upon approval.