

ACT 101

H.B. NO. 87

A Bill for an Act Relating to Public Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 353C-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any independent civil process server may submit the server’s name to the director to be placed on the list; provided that a person shall not be placed on the list if the person:

- (1) Is serving a criminal sentence;
- (2) Has been convicted of a crime within the previous ten years;
- (3) Is required to register as a sex offender; ~~[or]~~
- (4) Is subject to any other legal restriction, including a temporary restraining order, that prevents the person from serving process~~[-];~~ or
- (5) Cannot provide a copy of a current State of Hawaii general excise tax license.”

SECTION 2. Section 708-813, Hawaii Revised Statutes, is amended to read as follows:

“**§708-813 Criminal trespass in the first degree.** (1) A person commits the offense of criminal trespass in the first degree if:

- (a) That person knowingly enters or remains unlawfully:
 - (i) In a dwelling; or
 - (ii) In or upon the premises of a hotel or apartment building;
- (b) That person:

- (i) Knowingly enters or remains unlawfully in or upon premises that are fenced or enclosed in a manner designed to exclude intruders; and
 - (ii) Is in possession of a firearm, as defined in section 134-1, at the time of the intrusion; or
 - (c) That person enters or remains unlawfully in or upon the premises of any public school as defined in section 302A-101, or any private school, after reasonable warning or request to leave by school authorities or a police officer; provided however, such warning or request to leave shall be unnecessary between 10:00 p.m. and 5:00 a.m.
- (2) Subsection (1) shall not apply to a process server who enters or remains in or upon the land or premises of another, unless the land or premises are secured with a fence and locked gate, for the purpose of making a good faith attempt to perform their legal duties and to serve process upon any of the following:
- (a) An owner or occupant of the land or premises;
 - (b) An agent of the owner or occupant of the land or premises; or
 - (c) A lessee of the land or premises.
- (3) As used in this section, "process server" means any person authorized under the Hawaii rules of civil procedure, district court rules of civil procedure, Hawaii family court rules, or section 353C-10 to serve process.
- ~~[(2)]~~ (4) Criminal trespass in the first degree is a misdemeanor."

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

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

- (a) The person knowingly enters or remains unlawfully in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced;
- (b) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, the owner's or lessee's authorized agent, or a police officer; provided that this paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.

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

- (i) A warning statement advising the person that the person's presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to section 708-814(1)(b), and that criminal trespass in the second degree is a petty misdemeanor;
- (ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the 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". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary 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 not less than two inches in height and shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.

For the purposes of this paragraph, "unimproved or unused lands" means any land upon which there is no improvement; construction of any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land remains "unimproved or unused land" under this paragraph notwithstanding minor improvements, including the installation or maintenance of utility poles, signage, and irrigation facilities or systems; minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including the installation or maintenance of fences, trails, or pathways; maintenance activities, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; and the removal or securing of rocks or boulders undertaken to reduce risk to downslope properties; or
- (e) The person enters or remains unlawfully in or upon the premises of any public housing project or state low-income housing project, as defined in section 356D-1, 356D-51, or 356D-91, after a reasonable warning or request to leave by housing authorities or a police officer, based upon an alleged violation of law or administrative rule; provided that a warning or request to leave shall not be necessary

between 10:00 p.m. and 5:00 a.m. at any public housing project or state low-income housing project that is closed to the public during those hours and has signs, containing letters not less than two inches in height, placed along the boundary of the project property, at all entrances to the property, in a manner and position to be clearly noticeable from outside the boundary of the project property and to give sufficient notice that the public housing project or state low-income housing project is closed to the public during those hours.

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

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

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

(c) A lessee of the land or premises.

~~(2)~~ (3) As used in this section, “housing”:

“Housing authorities” means resident managers or managers, tenant monitors, security guards, or others officially designated by the Hawaii public housing authority.

“Process server” means any person authorized under the Hawaii rules of civil procedure, district court rules of civil procedure, Hawaii family court rules, or section 353C-10 to serve process.

~~(3)~~ (4) Criminal trespass in the second degree is a petty misdemeanor.”

SECTION 4. Act 116, Session Laws of Hawaii 2013, is amended by amending section 25 to read as follows:

“SECTION 25. This Act shall take effect upon its approval and shall be repealed on ~~June 30, 2015;~~ June 30, 2020; provided that:

- (1) Section 501-154, Hawaii Revised Statutes, in section 2 of this Act;
- (2) Section 603-29, Hawaii Revised Statutes, in section 3 of this Act;
- (3) Section 604-6.2, Hawaii Revised Statutes, in section 4 of this Act;
- (4) Section 607-4(d), Hawaii Revised Statutes, in section 5 of this Act;
- (5) The title and subsection (a) of section 607-8, Hawaii Revised Statutes, in section 6 of this Act;
- (6) Section 633-8, Hawaii Revised Statutes, in section 7 of this Act;
- (7) Section 634-11, Hawaii Revised Statutes, in section 8 of this Act;
- (8) Section 634-12, Hawaii Revised Statutes, in section 9 of this Act;
- (9) Section 634-22, Hawaii Revised Statutes, in section 10 of this Act;
- (10) Section 634-29, Hawaii Revised Statutes, in section 11 of this Act;
- (11) Section 651-1, Hawaii Revised Statutes, in section 12 of this Act;
- (12) Section 652-1.5(a), Hawaii Revised Statutes, in section 13 of this Act;
- (13) Section 652-2, Hawaii Revised Statutes, in section 14 of this Act;
- (14) Section 652-2.5, Hawaii Revised Statutes, in section 15 of this Act;
- (15) Section 652-2.6(a), Hawaii Revised Statutes, in section 16 of this Act;
- (16) Section 654-2, Hawaii Revised Statutes, in section 17 of this Act;
- (17) Section 666-11, Hawaii Revised Statutes, in section 18 of this Act; and
- (18) Section 666-21(b), Hawaii Revised Statutes, in section 19 of this Act,

shall be reenacted in the form in which they read on the day prior to the effective date of this Act.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 2015.
(Approved June 9, 2015.)