

ACT 147

H.B. NO. 490

A Bill for an Act Relating to Crimes Against Seniors.

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

SECTION 1. Section 707-710, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of assault in the first degree if the person intentionally or knowingly causes ~~[serious]~~:

- (a) Serious bodily injury to another person~~[-]; or~~
- (b) Substantial bodily injury to a person who is sixty years of age or older and the age of the injured person is known or reasonably should be known to the person causing the injury.”

SECTION 2. 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) ~~[The person intentionally,]~~ Intentionally, knowingly, or recklessly causes substantial bodily injury to another;
- (b) ~~[The person recklessly]~~ Recklessly causes serious bodily injury to another;
- (c) ~~[The person intentionally]~~ 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) ~~[The person intentionally]~~ Intentionally or knowingly causes bodily injury to another with a dangerous instrument;
- (e) ~~[The person intentionally]~~ 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, 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) [~~The person intentionally~~] 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) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person employed at a state-operated or -contracted mental health facility. For the purposes of this paragraph, “a person employed at a state-operated or -contracted mental health facility” includes health care professionals as defined in section 451D-2, administrators, orderlies, security personnel, volunteers, and any other person who is engaged in the performance of a duty at a state-operated or -contracted mental health facility;
- (h) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person who:
 - (i) The defendant has been restrained from, by order of any court, including an ex parte order, contacting, threatening, or physically abusing pursuant to chapter 586; or
 - (ii) Is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order;
- (i) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to any firefighter or water safety officer who is engaged in the performance of duty. For the purposes of this paragraph, “firefighter” has the same meaning as in section 710-1012 and “water safety officer” means any public servant employed by the United States, the State, or any county as a lifeguard or person authorized to conduct water rescue or ocean safety functions;
- (j) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person who is engaged in the performance of duty at a health care facility as defined in section 323D-2. For purposes of this paragraph, “a person who is engaged in the performance of duty at a health care facility” [~~shall include~~] includes health care professionals as defined in section 451D-2, physician assistants, surgical assistants, advanced practice registered nurses, nurse aides, respiratory therapists, laboratory technicians, and radiology technicians;
- (k) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person who is engaged in providing home health care services, as defined in section 431:10H-201; [~~or~~]
- (l) [~~The person intentionally~~] Intentionally or knowingly causes bodily injury to a person, employed or contracted to work by a mutual benefit society, as defined in section 432:1-104, to provide case management services to an individual in a hospital, health care provider’s

office, or home, while that person is engaged in the performance of those services[-]; or

- (m) Intentionally or knowingly causes bodily injury to a person who is sixty years of age or older and the age of the injured person is known or reasonably should be known to the person causing the injury.”

SECTION 3. Section 708-812.55, Hawaii Revised Statutes, is amended by amending its title and subsection (1) to read as follows:

“~~§708-812.55~~ Unauthorized entry in a dwelling in the first degree.

(1) A person commits the offense of unauthorized entry in a dwelling in the first degree if the person intentionally or knowingly enters unlawfully into a dwelling and another person was, at the time of the entry, lawfully present in the dwelling who:

- (a) Was ~~[sixty-two]~~ sixty years of age or older[;] and the age of the person lawfully present in the dwelling was known or reasonably should have been known to the person who unlawfully entered;
- (b) Was an incapacitated person; or
- (c) Had a developmental disability.”

SECTION 4. Section 708-830.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the first degree if the person commits theft[;] of:

- (a) ~~[Of property]~~ Property or services, the value of which exceeds \$20,000;
- (b) ~~[Of a]~~ A firearm;
- (c) ~~[Of dynamite]~~ Dynamite or other explosive; ~~[or]~~
- (d) ~~[Of property]~~ Property or services during an emergency period proclaimed by the governor or mayor pursuant to chapter 127A, within the area covered by the emergency or disaster under chapter 127A, the value of which exceeds \$300[-];
- (e) Property from the person of another who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft; or
- (f) Property or services, the value of which exceeds \$750, from a person who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft.”

SECTION 5. Section 708-831, Hawaii Revised Statutes, is amended to read as follows:

“§708-831 Theft in the second degree. (1) A person commits the offense of theft in the second degree if the person commits theft[;] of:

- (a) ~~[Of property]~~ Property from the person of another;
- (b) ~~[Of property]~~ Property or services the value of which exceeds \$750;
- (c) ~~[Of an]~~ An aquacultural product or part thereof from premises that are fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message;

- (d) ~~[Of agricultural]~~ Agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or where there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message; or if at the point of entry of the premise, a crop is visible. The sign or signs, containing letters ~~[nøt]~~ no less than two inches in height, shall be placed along the boundary line of the land in a manner and in such a position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen; ~~[øf]~~
- (e) ~~[Of agricultural]~~ Agricultural commodities that are generally known to be marketed for commercial purposes. Possession of agricultural commodities without ownership and movement certificates, when a certificate is required pursuant to section 145-22, is prima facie evidence that the products are or have been stolen; provided that ~~[“agriculture”]~~ “agricultural commodities” has the same meaning as in section 145-21~~[-];~~ or
- (f) Property or services, the value of which exceeds \$250, from a person who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft.

(2) Theft in the second degree is a class C felony. A person convicted of committing the offense of theft in the second degree under ~~[(1)](c)~~ and (d) shall be sentenced in accordance with chapter 706, except that for the first offense, the court may impose a minimum sentence of a fine of at least \$1,000 or two-fold damages sustained by the victim, whichever is greater.”

SECTION 6. Section 708-851, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of forgery in the first degree if, with intent to defraud, the person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed:

- (a) Part of an issue of stamps, securities, or other valuable instruments issued by a government or governmental agency; ~~[øf]~~
- (b) Part of an issue of stock, bonds, or other instruments representing interests in or claims against a corporate or other organization or its property~~[-];~~ or
- (c) All or part of a deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status and:
- (i) The purported maker or drawer of the written instrument or forged instrument is a person who is sixty years of age or older; and

- (ii) The age of the purported maker or drawer of the written instrument or forged instrument is known or reasonably should be known to the person who falsely makes, completes, endorses, or alters the instrument; utters the forged instrument; or fraudulently encodes the magnetic ink character recognition numbers of the instrument.”

SECTION 7. Section 708-852, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of forgery in the second degree if, with intent to defraud, the person [~~falsely~~]:

- (a) ~~Falsely~~ makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed, a deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status[-]; or
- (b) Falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument; and:
 - (i) The purported maker or drawer of the written instrument or forged instrument is a person who is sixty years of age or older; and
 - (ii) The age of purported maker or drawer of the written instrument or forged instrument is known or reasonably should be known to the person who falsely makes, completes, endorses, or alters a written instrument; or utters a forged instrument.”

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

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved July 1, 2021.)