

JAN 23 2015

A BILL FOR AN ACT

RELATING TO PUBLIC ORDER.

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

1 SECTION 1. Chapter 711, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§711- Public order violations; petition to vacate
5 conviction. (1) Notwithstanding any other provision to the
6 contrary, any person convicted of violating section 711-1105,
7 any county ordinance prohibiting sitting or lying on public
8 sidewalks, or any other state or county law relating to
9 obstructing a public place, may petition the court where the
10 conviction took place to vacate the conviction. A petition to
11 vacate the conviction under this section shall be filed within
12 three years from the date the final judgment of conviction was
13 entered. The proceeding for the petition shall be in compliance
14 with the post-conviction proceedings set forth in the Hawaii
15 Rules of Penal Procedure, except where it conflicts with the
16 provisions of this section.



1 (2) The judgment of conviction for an offense described in
2 subsection (1) shall be vacated, if the court finds by a
3 preponderance of the evidence that at the time of committing the
4 offense, the petitioner was:

5 (a) Homeless;

6 (b) Denied access to a homeless facility, including an
7 emergency shelter or transitional shelter, at least
8 five days prior to committing the offense; or

9 (c) Denied access to services or programs offered by a
10 provider agency for the homeless at least five days
11 prior to committing the offense.

12 (3) As used in this section:

13 "Emergency shelter" shall have the same meaning as in
14 section 346-361.

15 "Homeless" shall have the same meaning as in section 346-
16 361.

17 "Homeless facility" shall have the same meaning as in
18 section 346-361.

19 "Provider agency" shall have the same meaning as in section
20 346-361.



1 "Public place" means any street, sidewalk, bridge, alley or
2 alleyway, plaza, park, driveway, parking lot or transportation
3 facility or the doorways and entrance ways to any building which
4 fronts on any of the aforesaid places, or a motor vehicle in or
5 on any such place.

6 "Transitional shelter" shall have the same meaning as in
7 section 346-361."

8 SECTION 2. 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 3. New statutory material is underscored.

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

13

INTRODUCED BY: Shannon Chun Carlson
By Request



S.B. NO. 269

Report Title:

Homeless; Obstruction of Public Places; Vacate Conviction

Description:

Establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing a public place on grounds that the person was homeless at the time of committing 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.

