
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 or occupying a public place, may petition the court
10 where the conviction took place to vacate the conviction. A
11 petition to vacate the conviction under this section shall be
12 filed within three years from the date the final judgment of
13 conviction was entered. The proceeding for the petition shall
14 be in compliance with the post-conviction proceedings set forth
15 in the Hawaii Rules of Penal Procedure, except where it
16 conflicts with this section.

17 (2) The judgment of conviction for an offense described in
18 subsection (1) shall be vacated if the court finds by a



1 preponderance of the evidence that at the time of committing the
2 offense the petitioner was:

3 (a) Homeless;

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

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

10 (3) As used in this section:

11 "Emergency shelter" shall have the same meaning as in
12 section 346-361.

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

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

17 "Provider agency" shall have the same meaning as in section
18 346-361.

19 "Public place" means any street, sidewalk, bridge, alley or
20 alleyway, plaza, park, driveway, parking lot or transportation
21 facility, or the doorways and entrance ways to any building that



1 fronts on any of these places, or a motor vehicle in or on any
2 such place.

3 "Transitional shelter" shall have the same meaning as in
4 section 346-361."

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

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on January 7, 2059.



Report Title:

Homeless; Obstruction or Occupation of Public Places; Vacate Conviction

Description:

Establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing or occupying a public place on grounds that the person was homeless at the time of committing the offense. Effective 01/07/2059. (SD2)

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