

JAN 20 2017

A BILL FOR AN ACT

RELATING TO INDECENT EXPOSURE.

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

1 SECTION 1. The legislature finds that nude sunbathing has
2 been reported at public areas within proximity to residents,
3 private lands, and families. It has also been reported that as
4 a result of the 2000 Hawaii Supreme Court decision in State v.
5 Kalama, 94 Haw. 60, 8 P.3d 1224 (2000), law enforcement agencies
6 have taken the position that an officer who approaches an
7 individual who is nude in public cannot issue a citation to or
8 arrest the individual for indecent exposure unless a complaint
9 has been made by a member of the public or the individual
10 confronts the officer. This was not the intent of the
11 legislature in creating the offense of indecent exposure.
12 However, because the court in Kalama determined that the
13 language of the indecent exposure law was clear and unambiguous,
14 the court did not consider the legislative history which
15 indicated that the offense of indecent exposure was specifically
16 intended to address activities such as nude sunbathing and
17 streaking.



1 The purpose of this Act is to amend the offense of indecent
2 exposure to specifically include the activity of nude
3 sunbathing.

4 SECTION 2. Section 707-734, Hawaii Revised Statutes, is
5 amended by amending subsection (1) to read as follows:

6 "(1) A person commits the offense of indecent exposure
7 if [~~the~~]:

8 (a) The person intentionally exposes the person's genitals
9 within reasonable proximity to a person to whom the
10 person is not married under circumstances in which the
11 actor's conduct is likely to cause affront[~~-~~] to the
12 other person; or

13 (b) The person is engaged in the activity of nude
14 sunbathing in an area where the actor's conduct is
15 likely to cause affront to another person."

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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S.B. NO. 691

1 SECTION 5. This Act shall take effect upon its approval.

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S.B. NO. 691

Report Title:

Penal Code; Indecent Exposure; Nude Sunbathing

Description:

Clarifies that the offense of indecent exposure includes the activity of nude sunbathing.

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