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# A BILL FOR AN ACT

RELATING TO CRIMINAL DEFENSE.

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

1           SECTION 1. Section 707-702, Hawaii Revised Statutes, is  
2 amended by amending subsection (2) to read as follows:

3           "(2) In a prosecution for murder or attempted murder in  
4 the first and second degrees it is an affirmative defense, which  
5 reduces the offense to manslaughter or attempted manslaughter,  
6 that the defendant was, at the time the defendant caused the  
7 death of the other person, under the influence of extreme mental  
8 or emotional disturbance for which there is a reasonable  
9 explanation. The reasonableness of the explanation shall be  
10 determined from the viewpoint of a reasonable person in the  
11 circumstances as the defendant believed them to be[-]; provided  
12 that an explanation that is not otherwise reasonable shall not  
13 be determined to be reasonable because of the defendant's  
14 discovery, knowledge, or disclosure of the other person's actual  
15 or perceived gender, gender identity, gender expression, or  
16 sexual orientation, including under circumstances in which the  
17 other person made an unwanted nonforcible romantic or sexual



1 advance toward the defendant, or in which the defendant and the  
2 other person dated or had a romantic relationship. If the  
3 defendant's explanation includes the discovery, knowledge, or  
4 disclosure of the other person's actual or perceived gender,  
5 gender identity, gender expression, or sexual orientation, the  
6 court shall instruct the jury to disregard biases or prejudices  
7 regarding the other person's actual or perceived gender, gender  
8 identity, gender expression, or sexual orientation in reaching a  
9 verdict."

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on January 28, 2081.



**Report Title:**

Affirmative Defense; Gender; Sexual Orientation; Prohibition

**Description:**

Amends the affirmative defense to murder or attempted murder of extreme mental or emotional disturbance by prohibiting explanations based solely on the defendant's discovery, knowledge, or disclosure of the victim's gender, gender identity or expression, or sexual orientation. Requires the court to instruct the jury to disregard bias and prejudice if a defendant's explanation includes the discovery of a victim's gender, gender identity or expression, or sexual orientation.

(HB711 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

