

JAN 18 2019

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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 shall not be determined to be reasonable  
13 solely because of the defendant's discovery, knowledge, or  
14 disclosure of the other person's actual or perceived gender,  
15 gender identity, gender expression, or sexual orientation,  
16 including under circumstances in which the other person made an  
17 unwanted nonforcible romantic or sexual advance toward the




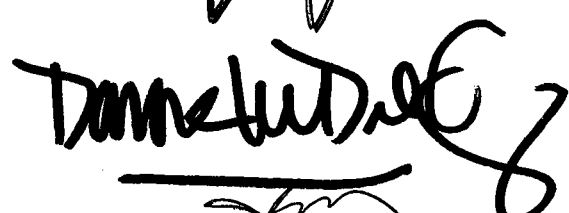
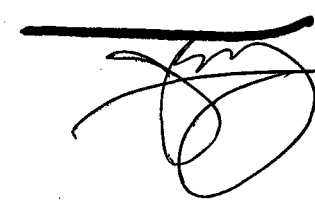
1 defendant, or if the defendant and the other person dated or had  
 2 a romantic or sexual relationship. Nothing in this subsection  
 3 shall preclude the jury from considering all relevant facts to  
 4 determine whether the defendant was in fact provoked for  
 5 purposes of establishing subjective provocation.



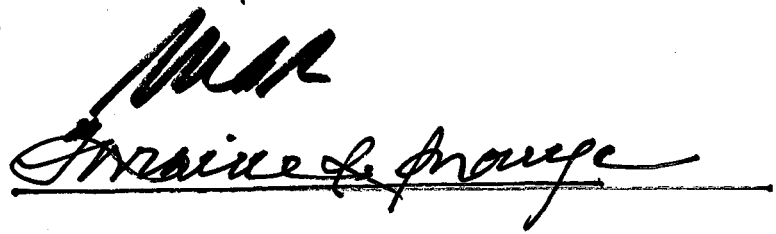
6 For purposes of this subsection, "gender" includes a  
 7 person's gender identity and gender-related appearance and  
 8 behavior regardless of whether that appearance or behavior is  
 9 associated with the person's gender as determined at birth."

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 upon its approval.  
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INTRODUCED BY: Michelle Sidani

  
 Clarence K. Mitchell  
  


# S.B. NO. 342

**Report Title:**

Murder; Manslaughter; Affirmative Defense; Extreme Mental or Emotional Disturbance; Gender; Sexual Orientation; Gay Panic Defense; Prohibition

**Description:**

Prohibits defendants from claiming that discovery, knowledge, or disclosure of a victim's gender, gender identity, gender expression, or sexual orientation resulted in extreme mental or emotional disturbance sufficient to reduce a charge of murder to a charge of manslaughter unless the other circumstances of a defendant's explanation are already sufficient to reasonably find extreme mental or emotional disturbance.

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

