

JAN 20 2023

A BILL FOR AN ACT

RELATING TO DESECRATION.

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

1 SECTION 1. The legislature finds that television, movies,
2 and social media have depicted Hawaii as an extremely attractive
3 destination for sightseeing and outdoor adventures. Although
4 tourism benefits the State by generating economic activity, the
5 legislature recognizes the need to ensure that visitors and
6 residents treat cultural and historic resources with care and
7 respect. Importantly, the islands are home to a number of
8 geological and archaeological features that are sacred to Native
9 Hawaiians, including features that are considered places of
10 worship or burial. Notwithstanding, in late 2022, a tourist
11 filmed himself urinating and making a vulgar hand gesture atop
12 Mauna Kea, a mountain of sacred reverence to Native Hawaiians.
13 Even more recently, during the 2023 eruption of Kilauea, a man
14 photographed himself urinating near the Kilauea viewing site and
15 posted it to social media. These events highlight the
16 continuing need to protect Hawaii's cultural and historic
17 resources.



1 The purpose of this Act is to increase protection of the
2 State's cultural and historic resources and facilitate
3 enforcement of state law prohibiting acts of desecration by:

- 4 (1) Reducing the requisite state of mind for the criminal
5 offense of desecration from "intentionally" to
6 "knowingly"; and
7 (2) Simplifying the definition of "desecrate".

8 SECTION 2. Section 711-1107, Hawaii Revised Statutes, is
9 amended by amending subsections (1) and (2) to read as follows:

10 "(1) A person commits the offense of desecration if the
11 person [~~intentionally~~] knowingly desecrates:

- 12 (a) Any public monument or structure;
13 (b) A place of worship or burial; or
14 (c) In a public place the national flag or any other
15 object of veneration by a substantial segment of the
16 public.

17 (2) "Desecrate" means defacing, damaging, polluting, or
18 otherwise physically mistreating [~~in a way that the defendant~~
19 ~~knows will outrage the sensibilities of persons likely to~~
20 ~~observe or discover the defendant's action.~~] any monument,
21 structure, place, or object described in subsection (1)."



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

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

6 SECTION 5. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: Lynn DeCrite



S.B. NO. 739

Report Title:

Native Hawaiian Caucus; Penal Code; Desecration; State of Mind;
Definition

Description:

Reduces the requisite state of mind for the criminal offense of desecration from "intentionally" to "knowingly". Simplifies the definition of "desecrate".

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