

ACT 149

H.B. NO. 711

A Bill for an Act Relating to Criminal Defense.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

“(2) In a prosecution for murder or attempted murder in the first and second degrees it is an affirmative defense, which reduces the offense to manslaughter or attempted manslaughter, that the defendant was, at the time the defendant caused the death of the other person, under the influence of extreme mental or emotional disturbance for which there is a reasonable explanation. The reasonableness of the explanation shall be determined from the viewpoint of a reasonable person in the circumstances as the defendant believed them to be[-]; provided that an explanation that is not otherwise reasonable shall not be determined to be reasonable because of the defendant’s discovery, defendant’s knowledge, or the disclosure of the other person’s actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the other person made an unwanted nonforcible romantic or sexual advance toward the defendant, or in which the defendant and the other person dated or had a romantic relationship. If the defendant’s explanation includes the discovery, knowledge, or disclosure of the other person’s actual or perceived gender, gender identity, gender expression, or sexual orientation, the

court shall instruct the jury to disregard biases or prejudices regarding the other person's actual or perceived gender, gender identity, gender expression, or sexual orientation in reaching a verdict."

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 Statutory material to be repealed is bracketed and stricken.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

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 2019.)