

JAN 22 2010

S.B. NO. 2353

A BILL FOR AN ACT

RELATING TO DESECRATION.

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

1 SECTION 1. The Puuiki Cemetery in Waialua Town was created
2 in the late 1800s for the Waialua Sugar Company workers and
3 community members. The cemetery sits on five acres of unfenced
4 land now owned by the Dole Food Company Hawaii and has more than
5 seven hundred fourteen grave sites. For the past ten years,
6 families and organizations have worked to clean and weed the
7 cemetery to transform it into a peaceful resting place. On
8 March 14, 2009, The Honolulu Advertiser reported that vandals
9 have been racing through the cemetery with motorcycles and
10 trucks, destroying the crosses, grave markers, and headstones.
11 Other reports include people driving through the cemetery to
12 access the beach and people allowing their dogs to urinate and
13 defecate on the graves. Over the past two years, the Honolulu
14 police department has responded to seven calls for police
15 service for loitering, playing loud music and talking, people
16 screaming, drinking, and arguing near the cemetery, and bones
17 exposed near grave sites. On July 15, 2009, the Honolulu city



1 council adopted Resolution No. 09-194 urging the legislature to
2 amend the law relating to the desecration of graves to enable
3 the conviction of a person who is found to have negligently
4 desecrated a place of burial, thus making it easier for the
5 prosecutor's office to convict a person under this law.

6 The purpose of this Act is to change the state of mind
7 required for the commission of the offense of desecration from
8 intentional to negligent desecration of a place of burial.

9 SECTION 2. Section 711-1107, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§711-1107 Desecration.** (1) A person commits the offense
12 of desecration if the person intentionally desecrates:

13 (a) Any public monument or structure; or

14 (b) A place of worship [~~or burial~~]; or

15 (c) In a public place the national flag or any other
16 object of veneration by a substantial segment of the
17 public.

18 (2) A person commits the offense of desecration if the
19 person negligently desecrates a place of burial.

20 [~~(2)~~] (3) "Desecrate" means defacing, damaging, polluting,
21 or otherwise physically mistreating in a way that the defendant



1 knows will outrage the sensibilities of persons likely to
2 observe or discover the defendant's action.

3 ~~[(3)]~~ (4) Any person convicted of committing the offense
4 of desecration shall be sentenced to a term of imprisonment of
5 not more than one year, a fine of not more than \$10,000, or
6 both."

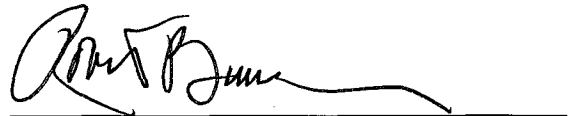
7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

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

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

13

INTRODUCED BY:



Report Title:

Desecration; Place of Burial; Negligent

Description:

Amends the state of mind required for the crime of desecration from intentional to negligent desecration of a place of burial.

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