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# A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1       SECTION 1. The legislature finds that the cultural and  
2 historic heritage of Native Hawaiians is among the State's  
3 important assets and the rapid social and economic developments  
4 of contemporary society threatens to destroy the remaining  
5 vestiges of Native Hawaiian heritage. Recently, there have been  
6 a number of incidents of property holding cultural or historical  
7 significance to Native Hawaiians being damaged or vandalized.  
8 For example, in May 2017, a canoe club in east Oahu reported  
9 that the ropes rigging the club's canoes had been slashed in two  
10 separate incidents within the same week, and three historic  
11 doors of Iolani Palace were vandalized. In October 2017, the  
12 Prince Kuhio statue in Waikiki was spray painted orange in an  
13 act of vandalism.

14       The legislature further finds that these acts involved  
15 properties that hold cultural or historical significance to  
16 Native Hawaiians. While these acts may be charged under  
17 existing criminal statutes, the damage to these properties under



1 the circumstance has outraged the sensibilities of persons who  
2 observed or discovered the perpetrator's actions. Thus,  
3 additional criminal penalties that are specific to damage to  
4 property holding cultural or historical significance to Native  
5 Hawaiians are necessary to preserve and provide stronger  
6 deterrents against damage to Native Hawaiian heritage vestiges.

7 The purpose of this Act is to amend the offenses of  
8 criminal property damage in the first, second, and third degrees  
9 to include damage to property holding cultural or historical  
10 significance to Native Hawaiians.

11 SECTION 2. Section 708-800, Hawaii Revised Statutes, is  
12 amended by adding a new definition to be appropriately inserted  
13 and to read as follows:

14 "Property holding cultural or historical significance to  
15 Native Hawaiians" means property that perpetuates Hawaiian  
16 traditional knowledge, strengthens cultural or spiritual  
17 connections among Native Hawaiians, or has demonstrable benefits  
18 to the Native Hawaiian community."

19 SECTION 3. Section 708-820, Hawaii Revised Statutes, is  
20 amended by amending subsection (1) to read as follows:



1       "(1) A person commits the offense of criminal property  
2 damage in the first degree if by means other than fire:

3           (a) The person intentionally or knowingly damages property  
4               and thereby recklessly places another person in danger  
5               of death or bodily injury;

6           (b) The person intentionally or knowingly damages the  
7               property of another, without the other's consent, in  
8               an amount exceeding \$20,000;

9           (c) The person intentionally or knowingly damages the  
10               property of another during an emergency period  
11               proclaimed by the governor or mayor pursuant to  
12               chapter 127A, within the area covered by the emergency  
13               or disaster; [~~or~~]

14           (d) The person intentionally or knowingly damages the  
15               agricultural equipment, supplies, or products or  
16               aquacultural equipment, supplies, or products of  
17               another, including trees, bushes, or any other plant  
18               and livestock of another, without the other's consent,  
19               in an amount exceeding \$1,500. In calculating the  
20               amount of damages to agricultural products, the amount



1 of damages includes future losses and the loss of  
2 future production[-]; or

3 (e) The person intentionally or knowingly damages property  
4 holding cultural or historical significance to Native  
5 Hawaiians in an amount exceeding \$1,500."

6 SECTION 4. Section 708-821, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8 "(1) A person commits the offense of criminal property  
9 damage in the second degree if by means other than fire:

10 (a) The person intentionally or knowingly damages the  
11 property of another, without the other's consent, by  
12 the use of widely dangerous means;

13 (b) The person intentionally or knowingly damages the  
14 property of another, without the other's consent, in  
15 an amount exceeding \$1,500; [~~or~~]

16 (c) The person intentionally or knowingly damages the  
17 agricultural equipment, supplies, or products or  
18 aquacultural equipment, supplies, or products of  
19 another, including trees, bushes, or any other plant  
20 and livestock of another, without the other's consent,  
21 in an amount exceeding \$500. In calculating the



1 amount of damages to agricultural products, the amount  
2 of damages includes future losses and the loss of  
3 future production[-]; or

4 (d) The person intentionally or knowingly damages property  
5 holding cultural or historical significance to Native  
6 Hawaiians in an amount exceeding \$500."

7 SECTION 5. Section 708-822, Hawaii Revised Statutes, is  
8 amended by amending subsection (1) to read as follows:

9 "(1) A person commits the offense of criminal property  
10 damage in the third degree if by means other than fire:

11 (a) The person recklessly damages the property of another,  
12 without the other's consent, by the use of widely  
13 dangerous means;

14 (b) The person intentionally or knowingly damages the  
15 property of another, without the other's consent, in  
16 an amount exceeding \$500; [~~or~~]

17 (c) The person intentionally damages the agricultural  
18 equipment, supplies, or products or aquacultural  
19 equipment, supplies, or products of another, including  
20 trees, bushes, or any other plant and livestock of  
21 another, without the other's consent, in an amount



1 exceeding \$100. In calculating the amount of damages  
2 to agricultural products, the amount of damages  
3 includes future losses and the loss of future  
4 production[-]; or

5 (d) The person recklessly damages property holding  
6 cultural or historical significance to Native  
7 Hawaiians in an amount exceeding \$100."

8 SECTION 6. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 7. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval.  
14



**Report Title:**

Penal Code; Criminal Property Damage; Property Holding Cultural or Historical Significance to Native Hawaiians

**Description:**

Amends the offenses of criminal property damage in the first, second, and third degrees to include damage to property holding cultural or historical significance to Native Hawaiians according to the state of mind of the offender and dollar value of the damaged property. (SD1)

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

