

JAN 17 2019

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



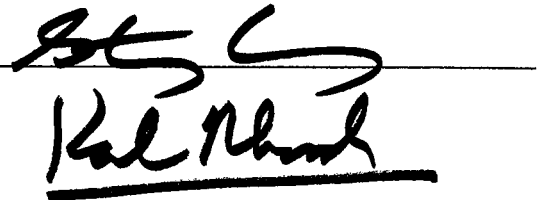
S.B. NO. 2

1 advance toward the defendant, or in which the defendant and the
2 other person dated or had a romantic relationship. If the
3 defendant's explanation includes the discovery of the other
4 person's actual or perceived gender, gender identity, gender
5 expression, or sexual orientation, the court shall instruct the
6 jury to disregard biases or prejudices regarding the other
7 person's actual or perceived gender, gender identity, gender
8 expression, or sexual orientation in reaching a verdict."

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 Statutory material to be repealed is bracketed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

11 SECTION 3. This Act shall take effect upon its approval.
12

INTRODUCED BY:


Kal R. Blank



S.B. NO. 2

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. Requires the court to instruct the jury to disregard bias and prejudice regarding gender, gender identity, gender expression, or sexual orientation when a defendant's explanation of extreme mental or emotional disturbance includes discovery, knowledge, or disclosure of a victim's gender, gender identity, gender expression, or sexual orientation.

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

