



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.B. NO. 2863, RELATING TO THE PENAL CODE.

BEFORE THE:

SENATE COMMITTEE ON HAWAIIAN AFFAIRS

DATE: Tuesday, February 13, 2018 **TIME:** 1:30 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Lance Goto, Deputy Attorney General.

Chair Shimabukuro and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of this bill and submits comments.

The purpose of this bill is to amend the crimes of criminal property damage in the first, second, and third degrees to include damage to property holding cultural or historical significance to Native Hawaiians based upon the dollar value of the damaged property.

The bill, on page 2, lines 14-15, adds a new definition to section 708-800, Hawaii Revised Statutes (HRS), that reads as follows:

"Property holding cultural or historical significance to Native Hawaiians" means any building, structure, monument, statue, object, district, area, or site, which is of cultural or historical significance to Native Hawaiians.

The definition is both broad and vague. It includes many different types of property, including an object, a building or structure, or land area. And it includes property that has "cultural or historical significance to Native Hawaiians." Unless it is property that has been specifically identified and marked as having cultural or historical significance to Native Hawaiians, it may be difficult to determine what property would have that significance. Persons may not have sufficient notice that they are violating this law.

The bill, on page 4, lines 1-3, sets out the proposed amendment to the offense of criminal property damage in the first degree as follows:

The person intentionally or knowingly damages property holding cultural or historical significance to Native Hawaiians in an amount exceeding \$1,500. Unlike other criminal property damage provisions, this offense does not include the requirement that the person damage the property of another, without the other's consent. Ownership and consent are not relevant to the commission of the offense. This means that the owner of the property can damage his own property and be charged with the felony offense if the property has cultural or historical significance to Native Hawaiians. There may also be an issue about what constitutes "damage" to such "significant" property. The "damage" could possibly include efforts to renovate, repair, or upgrade the property.

The amendments to the other criminal property damage offenses include similar provisions and issues.

The Department appreciates the opportunity to provide comments.

From: [Kau'inohea O Nalani Peneku](#)
To: [EEPtestimony](#); [HWNTestimony](#)
Subject: SB2863
Date: Wednesday, February 7, 2018 11:56:25 AM

Aloha. 'O Kau'inohea Peneku ko'u inoa. I am a mother of two young daughters and we are of native Hawaiian descent. It is our 'ohana's goal along with many other 'ohana throughout our Hawaiian Islands to see our native language, culture, practices, and people thrive. The only way that this will be at all possible is if we make it a priority to ensure that the programs, organizations, leaders, etc. which teach, support, and perpetuate our language have what they need in order to do so. However in order for our people to thrive we must first protect the lands, establishments, etc. which hold significance to our native people and culture. My 'ohana and I support Bill SB2863. E ola ka 'olelo Hawai'i!

SB-2863

Submitted on: 2/13/2018 4:05:22 PM

Testimony for HWN on 2/13/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kalewa	Individual	Support	No

Comments:

Aloha Ke Kā• mike no ke Kuleana Hawai'i,

I strongly support SB2863 native Hawaiian cultural heritage needs to be protected from the onslaught of looting and vandalism. Section (b) should be amended to \$1,500 for continuity and added protections.

Mahalo,

kā• lewa