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# A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

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

1           SECTION 1. The legislature finds that Hawaii has the  
2 highest percentage of endemic species of any state in the  
3 country, which also happens to be one of the highest rates found  
4 anywhere in the world. The federal Endangered Species Act of  
5 1973 and chapter 195D, Hawaii Revised Statutes, ensure the  
6 perpetuation of aquatic life, wild life, and land plants and  
7 their habitats by listing as endangered or threatened certain  
8 species of aquatic life, wild life, and land plants, some of  
9 which are indigenous to Hawaii, for protection and conservation.

10           However, there are indigenous species that are not deemed  
11 endangered or threatened under to the Endangered Species Act of  
12 1973 and chapter 195D, Hawaii Revised Statutes. As a result,  
13 some Hawaii indigenous species are not afforded the same federal  
14 and state protections as those listed species. For example, the  
15 Laysan albatross is listed under state administrative rules as  
16 an indigenous bird to Hawaii, but is not deemed an endangered or  
17 threatened species under the Endangered Species Act of 1973 and



1 chapter 195D, Hawaii Revised Statutes. In light of the deaths  
2 of several albatross at Kaena Point in December 2015, the  
3 legislature recognizes the need for heightened legal protections  
4 for Hawaii's indigenous birds specifically.

5 The purpose of this Act is to provide further protections  
6 for indigenous birds not listed as endangered or threatened  
7 under the Endangered Species Act of 1973 and chapter 195D,  
8 Hawaii Revised Statutes, by amending the offense of cruelty to  
9 animals in the first degree to include indigenous birds.

10 SECTION 2. Section 711-1100, Hawaii Revised Statutes, is  
11 amended by adding a new definition to be appropriately inserted  
12 and to read as follows:

13 "Indigenous bird" means any species of birds occurring or  
14 living naturally in Hawaii without having been brought to Hawaii  
15 by humans and not determined to be an endangered or threatened  
16 species under chapter 195D."

17 SECTION 3. Section 711-1108.5, Hawaii Revised Statutes, is  
18 amended as follows:

19 1. By amending subsection (1) to read:

20 "(1) A person commits the offense of cruelty to animals in  
21 the first degree if the person intentionally or knowingly:



1 (a) Tortures, mutilates, or poisons or causes the torture,  
2 mutilation, or poisoning of any pet animal [~~or~~],  
3 equine animal, or indigenous bird resulting in serious  
4 bodily injury or death of the pet animal [~~or~~], equine  
5 animal[ ~~or~~], or indigenous bird; or

6 (b) Kills or attempts to kill any pet animal or indigenous  
7 bird belonging to another person, without first  
8 obtaining legal authority or the consent of the [~~pet~~  
9 animal's] owner."

10 2. By amending subsections (4) and (5) to read:

11 "(4) Whenever any pet animal [~~or~~], equine animal, or  
12 indigenous bird is so severely injured that there is no  
13 reasonable probability that its life can be saved, the animal  
14 may be immediately destroyed without creating any offense under  
15 this section.

16 (5) Cruelty to animals in the first degree is a class C  
17 felony. In addition to any fines and imprisonment imposed under  
18 this section, any person convicted under this section shall be  
19 prohibited from possessing or owning any pet animal [~~or~~], equine  
20 animal, or indigenous bird for a minimum of five years from the  
21 date of conviction."



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1 SECTION 4. This Act does not affect rights and duties that  
 2 matured, penalties that were incurred, and proceedings that were  
 3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed  
 5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

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# H.B. NO. 390

**Report Title:**

Animal Cruelty; Indigenous Birds

**Description:**

Amends the offense of cruelty to animals in the first degree to include indigenous birds.

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