

STAND. COM. REP. NO.

2475

Honolulu, Hawaii

**FEB 16 2018**

RE: S.B. No. 2863  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred  
S.B. No. 2863 entitled:

"A BILL FOR AN ACT RELATING TO THE PENAL CODE,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the  
offenses of property damage in the first, second, and third  
degrees to include damaging property holding cultural or  
historical significance to Native Hawaiians.

Your Committee received testimony in support of this measure  
from the Historic Hawai'i Foundation; Ho'omana Pono, LLC;  
Ho'omanapono Political Action Committee; Oahu County Committee on  
Legislative Priorities of the Democratic Party of Hawaii; and six  
individuals. Your Committee received testimony in opposition to  
this measure from the Center for Hawaiian Sovereignty Studies.  
Your Committee received comments on this measure from the  
Department of the Attorney General.

Your Committee finds that there has been intentional  
desecration to property that holds cultural or historical  
significance to Native Hawaiians, such as the damage done to the  
'Iolani Palace, statue of Prince Kūhiō, and King Kamehameha statue  
in the County of Hawai'i. Your Committee believes that there needs  
to be a more fitting penalty for those who willfully damage  
culturally and historically important property that Native



Hawaiians consider significant in order to better protect and preserve the Hawaiian culture and to educate the public on Hawaiian history. Your Committee recognizes that the definition of property holding cultural or historical significance to Native Hawaiians in this measure, as drafted, is vague and needs refinement.

Your Committee notes for consideration by your Committee on Judiciary that rather than incarcerating an individual who has damaged culturally and historically significant property, requiring the individual to work with organizations that work toward the revitalization or preservation of Hawaiian culture and history may be a more appropriate penalty, as it presents an opportunity to teach the individual the importance and meaning of the property that was damaged.

Your Committee has amended this measure by:

- (1) Clarifying the definition of "property holding cultural or historical significance to Native Hawaiians"; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2863, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Hawaiian Affairs,




---

MAILE S.L. SHIMABUKURO, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Hawaiian Affairs**  
**HWN**

Bill / Resolution No.:*	Committee Referral:	Date:		
<b>HB 2863</b>	<b>HWN, JDC</b>	<b>2/13/2018</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	✓			
GALUTERIA, Brickwood (VC)				✓
ENGLISH, J. Kalani				✓
GREEN, Josh	✓			
RIVIERE, Gil	✓			
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes