
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, defendant's knowledge, or the disclosure of the other
15 person's actual or perceived gender, gender identity, gender
16 expression, or sexual orientation, including under circumstances
17 in which the other person made an unwanted nonforcible romantic



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

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 Statutory material to be repealed is bracketed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

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



Report Title:

Affirmative Defense; Gender; Sexual Orientation; Prohibition

Description:

Amends the affirmative defense of extreme mental or emotional disturbance to murder or attempted murder by prohibiting explanations based solely on the defendant's discovery, defendant's knowledge, or the disclosure of the victim's gender, gender identity or expression, or sexual orientation. Requires the court to instruct the jury to disregard bias and prejudice if a defendant's explanation includes the discovery of a victim's gender, gender identity or expression, or sexual orientation. (SD1)

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