

HOUSE OF REPRESENTATIVES  
 TWENTY-FIFTH LEGISLATURE, 2010  
 STATE OF HAWAII

**IMPORTANT NOTE:**

**THIS IS NOT THE TEXT OF THE BILL THAT WAS INTRODUCED ON JANUARY 28, 2010**

THIS IS A DRAFT (DATED 01/29/10) CONTAINING ALL PROVISIONS RECOMMENDED BY MIKE GOODMAN-

[www.MalamaAinaAct.org](http://www.MalamaAinaAct.org)

Email: [Mike@UtopiaPacific.com](mailto:Mike@UtopiaPacific.com)

Tel: (808) 428-9779

**Report Title:**

**“THE MALAMA AINA ACT”; A bill relating to crime.**

**Uniform Act.—**

— Repeals and/or amends existing laws and enacts a uniform, state-wide, comprehensive act that consists of five, proven strategies, employed simultaneously, to ensure that virtually all blight caused by graffiti vandalism, illegal dumping and aggravated littering, is eliminated throughout the entire State.

**Summary:**

**PARTS I & II (Requires action by the Legislature.)**

**A. Provides for extremely severe and certain punishment** of persons convicted of creating graffiti, illegally dumping rubbish and other forms of vandalism. — The value of damage to property is determined by the cost of restoring the property to its’ original state and appearance. — Includes enhanced penalties for vandalizing property that has historical significance, is culturally sacred, or is part of the natural environment.

**B. Minimum sentence:** First-time offenders causing less than \$500 worth of damage serve a minimum of thirty-days in prison; pay fines and surcharges of \$6000.; pay the property owner 3 times the cost of restoring property to its original condition and/or appearance, lose their driving privilege for two years, offender forfeits their property that is used to commit the offense, 600 hours community service working to eradicate graffiti and other forms of blight.

**C. Provides for enhanced sentences** for repeat offenders. — Offenders who cause damage that costs more than \$20,000. to repair, can be sentenced to five years in prison, a \$20,000 fine, pay treble damages to property owners for cost of repair, serve 2000 hours of community service, lose driving privilege for two years, forfeit their property used to commit the offense.

**D. . Makes companies, individuals and other entities** who profit from the sale of graffiti implements and/or who profit from the promotion of graffiti and related vandalism, subject to vicarious civil liability, to both the State and owners of private property who suffer damages.

**I**

HB HMIA \_\_-2010

\*HB HMIA \_\_-2010\*

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**E. Creates a screening procedure using background checks**, to grant volunteers the designation of: “State-Certified Environmental Volunteers” (“SCEV’s”) working under the auspices of the civil service, who can enter onto and eradicate blight from private property, while providing them qualified immunity.

**F.** Recommends investigating the possibility of providing selected and screened homeless families, individuals and other indigent persons, the opportunity to erect semi-permanent campsites on certain beaches and in certain parks, and to dwell in those places in return for performing part-time work, under the supervision of the civil service, to eradicate blight and keep those areas in pristine condition.

**PART III (Could be implemented by Executive Order, or could be mandated by the Legislature.)**

**G.** Provides for the near-immediate removal of graffiti, illegally dumped rubbish, and other forms of vandalism by members of the civil service, by reorganizing them into teams, each responsible for keeping a discreet geographic area in pristine condition. — Recommends the reinstatement of an “Environmental Crimes Unit” under the supervision of the Attorney General (“ECU”) that will create and maintain a database to track offenders and assist police and other prosecutors with apprehending and convicting graffiti vandals and illegal dumpers.

**H.** Provides for the use of better technology and techniques to catch offenders and remove blight quickly, and to restore property to its’ original state and/or appearance..

**I.** Provides mandates for the Department of Education, to teach students basic ethical principles, and how property rights are essential for a civil society.

**II**

HB HMIA \_\_-2010

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**JUSTIFICATION SHEET**

DRAFT DATE: January 29, 2010

TITLE:	<u><b>“THE MALAMA AINA ACT”</b></u> ( <i>Popular name</i> ) <u><b>A BILL FOR AN ACT RELATING TO CRIME:</b></u>
PURPOSE:	To eliminate virtually all blight caused by graffiti vandalism, illegal dumping and aggravated littering, throughout the entire State.
ACT NO.:	N/A
DEPARTMENT:	N/A
EFFECTIVE DATE:	July 1 <sup>st</sup> , 2010
<p>JUSTIFICATION:</p> <p><b><u>We Must No Longer Accept The Unacceptable:</u></b></p> <p>In the most remote part of the world, where the crystal-clear Pacific glows aqua and cobalt, the Hawai’ian islands rise from the raging ocean in a stunning display of unparalleled beauty.</p> <p>We who are blessed to be "<i>Kama-Aina</i>", have a duty of stewardship to preserve this paradise for residents, visitors and future generations.. It is incumbent upon us to defend the sacred "<i>Aina</i>" and the surrounding waters from those who would desecrate them.</p> <p>Our State motto: "<i>‘Ua mau ke ea o ka aina pono</i>"; (<i>“the life of the land is perpetuated in righteousness”</i>), is an admonishment that blight caused by gratuitous vandalism is intolerable.</p> <p><b><u>Graffiti, illegal dumping and aggravated litter, can no longer be regarded as low-level property crimes. — They must be viewed as serious offenses that are an attack upon a vital State resource.</u></b></p> <p>Hawai`i’s tourist-dependent economy is particularly vulnerable to blight. Tourism is fueled by the pristine beauty of these islands, and the allure of Hawai`i as an exotic South Pacific paradise. Urban blight, and graffiti in particular, is completely antithetical to the aesthetic of a tropical paradise that visitors rightfully expect from Hawai`i.</p> <p>Hawai`i is the most remote place in the world. It is cheaper and easier for most tourists to visit</p>	

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other tropical destinations. By fulfilling our promise as an earthly paradise, Hawai`i will garner tourists that might otherwise choose competing locales.

Blight also reduces the value of real estate, hurts retailers and other businesses, costs the State millions of dollars for eradication, while the aggregate economic damage it causes simultaneously reduces tax revenues.

Blight diminishes the spirit of residents, who see the beauty of their parks, beaches, cliffs, sacred sites, buildings and freeways, gratuitously vandalized by angry narcissists, venting their infantile rebellious contempt. But there are far worse afflictions manifested by blight:

**Studies link rising crime rates, including violent crimes with urban blight, and graffiti in particular:**

Many studies from around the world, statistically correlate unchecked blight with increases in the over-all crime-rate, including violent crimes.<sup>1</sup>

There are also profound statistical correlations between increases in one form of blight causing increases in other forms of blight. For example, illegally dumped rubbish and aggravated littering statistically leads to more graffiti, which in-turn leads to more of the former.

Although most graffiti is created by vandals who are not part of gangs, it's not uncommon for groups of graffiti vandals working together in so-called "crews", to evolve into violent street gangs.

Street gangs use graffiti to claim territory, and communicate threats to rivals. Crossing out a rival gang's graffiti often provokes deadly retaliation. Several citizens in Los Angeles have actually been murdered, merely because they asked graffiti vandals to stop defacing their property.<sup>2 / 3</sup>

Having tough penalties for graffiti vandals and tagging "crews" will have the ancillary benefit of providing law-enforcement with additional tools to break the cohesion of embryonic gangs, before they can manifest and grow.

**Previously enacted legislation to prevent graffiti, illegal dumping and litter, did not work because:**

A) Current State law does not provide penalties severe enough to deter vandals. For example,

<sup>1</sup> See "**Study in Support of the Malama Aina Act**" either attached hereto, OR at [www.MalamaAinaAct.org](http://www.MalamaAinaAct.org)

<sup>2</sup> (See attached articles) "**Graffiti Vandals Kill To Protect Their Work**" Associated Press, August 1, 2008 (See attached articles)

<sup>3</sup> (See attached articles) "**Trial set in graffiti shooting — two men face charges of attempted murder**" Pasadena Star News, date unknown.

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**HRS §577-3.5** — Provides that vandals serve eighty-hours of community service, remove the graffiti they created within sixty-days, and pay for the cost of repairing the property they-damaged. It also makes parents of minors jointly and severally liable, and permits property owners to maintain a civil action against them. **HRS §708-823.5 “Aggravated criminal property damage.”** provides that a person convicted **two or more times under §708-822 or §708-823** shall be guilty of a misdemeanor. The misdemeanor conviction means that offenders *could* face up to a year in jail and a \$2000 fine. Since under current enforcement practices, the likelihood of catching and convicting vandals once, let alone twice, are fairly low, these penalties have little deterrent effect.

B) There is no comprehensive plan to provide law enforcement with tools they need to catch offenders.

C) There is no comprehensive strategy to quickly eradicate blight, in a manner that restores property to its’ original state and appearance. Instead, freeways and other structures are covered in an unsightly patchwork of mismatched paint.

D) There is no legal strategy contemplated or acted upon, to punish individuals and companies under the doctrine of vicarious liability, who profit from selling graffiti implements and who promote the crime of graffiti and thereby profit from the sale of videos & memorabilia.

F) The foregoing omissions allows blight to manifest. Vandals are thus emboldened while helplessness, fatalism and acceptance replace appropriate outrage. This in turn leads to the creation of more blight.

**The environment:**

Illegally dumped rubbish continues to increase. Dumpers are rarely caught, and when they are, they usually face penalties too light to deter recidivism. Those who simply litter beaches, parks, forests and sidewalks, with cigarette butts, fast food containers, beer bottles etc. are virtually never caught and punished. Tragically, a percentage of this rubbish invariably makes its way into the ocean, damaging our fragile ecosystem.

*(For a more detailed justification for this Act see: Research in Support of Proposed Legislation; For the benefit of the Legislature for the State of Hawai`i; **“Graffiti In The State of Hawai`i; How It Can Be Eliminated; and Why It Makes Sense to Combine This With Measures to Combat Illegal Dumping and Litter”**; (either attached hereto, or available at [www.MalamaAinaAct.org](http://www.MalamaAinaAct.org))*

**IMPACT ON THE PUBLIC:**

Lower overall crime rates; Renewed pride and optimism about the future of Hawai`i; Renewed faith in the ability of government to solve problems; Increased volunteerism; Increased

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	<p>tourism; Improvements in the coastal ecosystem; Early intervention with juvenile offenders will deter many from a life of crime; Creates a tool for law enforcement to use against the formation and importation of violent street gangs.</p>
<p><b>IMPACT ON DEPARTMENTS AND AGENCIES:</b></p>	<p>Sanitation and maintenance personnel, that are now under the supervision of several agencies and departments, would be consolidated to one. The Act also provides that these personnel be grouped together into teams, with each team responsible for a discrete geographic area, commensurate with areas governed by Community Boards. Because this is a complex undertaking that involves negotiation and consultation with unions, it's recommended that reorganization of the civil service be tested in pilot programs before being implemented state-wide.</p> <p><b>REQUIRES:</b> Extensive reorganization of the Department of Accounting and General Services maintenance divisions; County and State Parks maintenance divisions; the Department of Transportation's Highways Division maintenance workers; The Department of Health, Reorganizing existing investigatory and enforcement personnel from the Department of Land and Natural Resources, and Department of Health into a single "Land Crimes Enforcement Unit" ("ECFU") under the authority of the Attorney General; The Department of Public Safety, and Parole Officers, to coordinate those sentenced to community service and prisoners on work-release, to assist and be supervised by members of the civil service who are responsible for eradicating blight; Department of Business, Economic Development and Tourism to educate the public at large about the economic and social cost of urban blight; Department of Education to provide instruction to young people about the importance of respecting property rights, and the economic and social costs of vandalism.</p>
<p><b>FISCAL IMPACT:</b></p>	<p>No additional costs to the State, and possibly a net gain in revenue. This Act can work within existing budgets, because it involves re-organization and re-allocation of existing resources and personnel. It does not create any new agencies or increase the bureaucracy.</p>

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	<p>The Act will also raise enough revenue through fines, property forfeiture, and restitution to defray any unexpected costs. Revenue would also be generated by pursuing civil actions against companies who profit from the sale of graffiti implements and from promoting the crime of graffiti vandalism. Furthermore, this Act provides that convicted offenders will serve extensive community service sentences, working to eradicate blight, under the supervision of Civil Service personnel, thereby increasing the effectiveness of the Civil Service.</p> <p>Although unknown at this time, there may also be a net savings to the State because of the dramatic reduction in acts of vandalism expected. Savings to the State may also accrue by greater efficiency through the re-organization of resources.</p> <p>Although it will be extremely difficult to quantify causality, the positive economic impact of eliminating blight will probably result in increased tax revenue for the State from tourism, increased real-estate values, and a reduction in the over-all crime rate.</p>
<p><b>MEANS:</b></p>	<p><b><u>PART I (Would have to be enacted by the Legislature)</u></b></p> <p>[Deletions and additions made to HRS Division 5. Crimes and Criminal Proceedings Title 37. Hawaii Penal Code Chapter 708. Offenses Against Property Rights Part III Criminal property damage in the second degree, §708-821. Criminal property damage in the third degree, §708-822.] ♦ [Additions and deletions to Criminal property damage in the fourth degree §708-823.] ♦ [Deletions and additions made to HRS §708-823.5. Aggravated criminal property damage.] ♦ [Deletions and additions to HRS 708-829. Criminal littering.] ♦ [Division 2. BUSINESS, Title 26, Chapter 489, added §489X-2. Sale of adult products; graffiti implements.] ♦ [Division 3; Title 31, Chapter 577. CHILDREN §577-3.5. Property damage, parental responsibility, is repealed.]</p> <p><b><u>PART II (Would have to be enacted by the Legislature)</u></b></p>

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	<p>[Title 7.§101-71 Taking private personal property for public use is amended by adding §101-71.(A)] ♦ [SECTION 13. Title 7, §90D6 Commission on volunteering, Powers, duties and functions, added §90-D-6A.]</p> <p>-----</p> <p><b><u>PART III (Can either be enacted by the Legislature or mandated by executive order)</u></b></p> <p>[Volume I, Chapter 28, Part I, 28-10.6 Crime research, prevention, and education; administrator and staff. Added §28-10.6(6) et seq. Department of the Attorney General to establish Environmental Crimes Enforcement Unit, to combine personnel from other departments engaged in similar pursuits into one coordinated force] ♦ [Title 9, §107-3 The powers and duties of the department of accounting and general services shall include, added .§101-71(4) et seq.] ♦ [SECTION 14, Title 13, Part I §201-5, Department of Business, Economic Development and Tourism, Promotion director and employees, added §201-5.A] ♦ [SECTION 15, Title 18, Chapter 302A. Part II, Provisions Affecting Students B. Curriculum and Instruction §302A-321 Standards-based curriculum, added §302A-321.(5).]</p>
<p><b>GENERAL FUND:</b></p>	<p>Impact if any, uncertain. Departments involved with eradication and enforcement will have to determine this by instituting pilot programs before implementing these measures state-wide.</p>
<p><b>OTHER FUNDS:</b></p>	<p>Unknown at this time.</p>
<p><b>PROGRAM DESIGNATION:</b></p>	<p>Unknown at this time.</p>

REVISED:  
DRAFT DATE: January 29, 2010

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TWENTY- FIFTH LEGISLATURE, 2010  
STATE OF HAWAII

# H.B. NO. 2986

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## A BILL FOR AN ACT

### PART I.

#### SECTION 1.

The Legislature finds that despite having passed bills that provide for stronger penalties in an attempt to reduce the incidents of illegal dumping, litter and graffiti (the foregoing crimes collectively referred to hereunder as "blight" or "urban blight"), have only been marginally effective, and blight has continued to grow worse. Graffiti, particularly on Oahu, has reached epidemic levels.

Pertaining to graffiti, Act 187, Session Laws 2005, in an effort to address the rising incidences of graffiti vandalism, established the misdemeanor offense of aggravated criminal property damage, which applies to a person who intentionally damages the property of another without the other's consent and has two or more convictions for criminal property damage in the third or fourth degree in the preceding five years. Since that time, Act 187 was amended to eliminate the five-year look-back period. (SEE: *Conference Committee Report No. 67, Senate Standing Committee Report No. 1362. Session Laws of Hawaii 2005*). This was enacted as a means to punish those who are repeatedly convicted under low-level property damage crimes. The Legislature finds that this and other bills enacted did not work as intended because they did not employ a robust, comprehensive approach. In particular:

A) They did not provide penalties severe enough to deter vandals;

B) They did not require convicted vandals to perform prodigious amounts of community service

1 work eradicating graffiti, and cleaning illegal dumpsites, rubbish, and litter. This would have  
2 required offenders to undergo more severe punishment, with the added bonus of a low-cost  
3 method of eradicating blight;

4 C) They did not adequately compensate the owners of public and private property for the cost and  
5 trouble of restoring vandalized property to its original condition and appearance.

6 D) They did not provide law enforcement with tools they need to catch perpetrators, including  
7 penalties of sufficient severity to encourage offenders to help the police catch other offenders  
8 in return for a reduced sentence.

9 E) They did not provide a comprehensive plan to quickly eradicate blight by utilizing existing  
10 resources and technology more efficiently

11 F) They were not robust and strategically comprehensive, thus allowing offenders to circumvent  
12 efforts to stop them. Vandals were emboldened while a fatalistic perception of hopelessness and  
13 acceptance grew amongst the general population, which led to more vandalism.

14 **Studies link rising crime rates, including violent crimes with pervasive urban blight, and**  
15 **graffiti in particular:**

16 The Legislature concurs with studies that statistically correlate unchecked blight with increases in  
17 the over-all crime-rate, including violent crimes. Prodigious blight left unabated, creates an impression  
18 that civil-society has surrendered to disorder. Crime flourishes where criminals perceive that law-  
19 enforcement is impotent. There is also a substantial amount of data showing that a significant percentage  
20 of graffiti vandals who are not subjected to certain and severe punishment, go on to commit more serious  
21 crimes. Although ninety-percent of graffiti is created by vandals that are not part of gangs, it's not  
22 uncommon for groups of graffiti vandals working together as "crews", to evolve into violent street gangs.

1 Street gangs use graffiti to claim territory, and communicate threats to rivals and others who oppose them.

2 Hawaii has not yet experienced a major influx of violent street gangs such as those that plague the  
3 mainland. However, the Legislature opines that Hawaii is not immune from the fate suffered by many  
4 cities around the world, and intends for this Act be used as part of a larger strategy to remove the scourge  
5 of gangs from our State.

6 **The economy:**

7 Tourism is fueled to a large degree by the beauty of our island-State, and its allure as a south-seas  
8 paradise. Urban blight and graffiti in particular, is completely antithetical to the type of experience  
9 visitors rightfully expect from a Hawai`ian vacation.

10 In the absence of hard data, the Legislature nonetheless logically infers that blight has caused at  
11 least some visitors to choose other more convenient and less costly destinations than Hawai`i. Negative  
12 word-of-mouth from disappointed visitors, who expected an escape to a tropical paradise, but instead  
13 found urban blight defacing many of our State's natural and human-made wonders, has diminished the  
14 image of Hawai`i, which has in-turn caused the State incalculable economic damage.

15 Blight also reduces the value of real estate, hurts retailers and other businesses. Blight costs the  
16 State millions of dollars for eradication, while the economic damage simultaneously reduces tax revenues.

17 **The environment:**

18 Illegally dumped rubbish continues to increase. Dumpers are rarely caught, and when they are,  
19 often face punishment not harsh enough to deter recidivism. Those who simply litter beaches, parks, are  
20 virtually never caught and punished. Tragically, a percentage of this rubbish invariably makes its way into  
21 the ocean, damaging our fragile ecosystem.

22 **Cultural values:**

1 The Legislature believes it is our solemn duty to preserve the sacred “Aina” of these islands and  
2 the ocean that surrounds them. Our State moto: “Ua mau ke ea o ka aina pono”; (*“the life of the land is*  
3 *perpetuated in righteousness”*), is an admonishment that blight caused by vandalism, is an intolerable  
4 attack upon the core cultural values of Hawaii.

5 **In light of the forgoing, the Legislature finds that graffiti, litter and illegal dumping, shall no**  
6 **longer be regarded as low level property crimes, and shall henceforth be viewed as serious offenses.**

7 **SECTION 2.**

8 **Statutory material to be repealed is bracketed and stricken.**

9 **Statutory material to be added is underscored.**

10 Volume 14, Division 5, CRIMES AND CRIMINAL PROCEEDINGS, Title 37. Chapter 708.

11 OFFENSES AGAINST PROPERTY RIGHTS Part III. CRIMINAL DAMAGE TO PROPERTY,

12 Hawaii Revised Statutes shall be amended as follows:

13 **§708-821. Criminal property damage in the second degree.**

14 (1) A person commits the offense of criminal property damage in the second degree if by means other  
15 than fire:

16 (a) The person intentionally or knowingly damages the property of another, without the  
17 other's consent, by the use of widely dangerous means;

18 (b) The person intentionally ~~or~~ and knowingly damages the property of another, without  
19 the other's consent, in an amount exceeding [~~\$1,500.~~] \$20,000.00, where the amount in  
20 this section shall be defined and calculated as the cost of restoring or otherwise repairing  
21 the damaged property to a state and appearance that is as close as possible to its' original

1 state and appearance immediately before it was vandalized by the offender.. If the property  
2 cannot be reasonably replaced , repaired or restored, or can only be partially restored.  
3 repaired, or replaced, adversely affecting its appearance, market value, or its' cultural,  
4 historical, or religious significance to the owner or public, or the property is irreplaceable,  
5 irreparable or partially reparable because there is a reasonable inference of personal  
6 sentimental l value to the owner, and/or the property is part of a natural landscape, and can  
7 never be fully restored to its' original state, the court may take the foregoing factors into  
8 consideration in order to assign a value to the property in addition to the costs of partial  
9 repair.

10 (c) The term "damage" as used in this chapter, shall also include the creation of graffiti,  
11 on either public or private property, where the term "graffiti" is defined under this chapter  
12 as willfully creating any permanent or semi-permanent, unauthorized marking, etching,  
13 painting, or otherwise willfully changing the appearance or function of such property in  
14 any other manner, with the intent that such changes be permanent or semi-permanent,  
15 without permission of the owner, or the owner's authorized representative.

16 (d) The term "damage" as used in this chapter shall also include the common meaning of  
17 doing harm to property, where such harm is done deliberately and willfully, and/shall also  
18 include deliberately or willfully dumping rubbish, litter, or any other waste products or  
19 noxious foreign substances or noxious chemicals which in the aggregate exceeds 100  
20 pounds, or consist of 20 or more pieces of any weight, upon the public or private property  
21 of another, without a valid permit to do so, and without permission of the owner or the

1 owner's representative.

2 (e) [(e)] A person intentionally or knowingly damages the agricultural equipment, supplies,  
3 or products or aquacultural equipment, supplies, or products of another, including trees,  
4 bushes, or any other plant and livestock of another, without the other's consent, in an  
5 amount exceeding \$500. In calculating the value of damage, the value of future crops that  
6 were damaged is included.

7 (2) Criminal property damage in the second degree is a class C felony.

8 (3) For a conviction under this section, the sentence shall be:

9 (a) — Subject to the all of the provisions of H.R.S. §706-660 pertaining to class c felonies..  
10 including a term of imprisonment of 5 years, or alternate punishments pursuant to §706-  
11 605.5, which provides that any person convicted of a felony for the first time, may be  
12 sentenced under the HRS “**Program of regimental discipline**”, equal to the time of the  
13 prison sentence required, instead of prison, at the discretion of the court. Any person so  
14 sentenced who willfully fails to fulfill the requirements of the above referenced program of  
15 regimental discipline, may be discharged from the program by the person's probation  
16 officer, or by the court whereupon that person shall serve the remainder of their sentence  
17 in prison..

18 (b) A fine of not less that \$20,000. but not more than \$30,000.

19 (c) A surcharge of \$3000. to be deposited into the graffiti database special fund as

1 established by section §28-10.6(b)(2) of this act, which is to be administered by the  
2 special Environmental Crimes Enforcement Unit within the Department of the Attorney  
3 General,, established by this Act, hereinafter (“ECEU”).

4 (d) 2000 hours of community service, where any person who willfully fails to fulfill their  
5 community service obligation may be required, at the discretion of the court, to serve a  
6 prison sentence in addition to other prison time prescribed in other sections of this chapter,  
7 in an amount equal to the amount of community service time that remains. For the purpose  
8 of this chapter, community service shall mean working to eradicate graffiti, illegally  
9 dumped rubbish and litter, or other work performing maintenance of public property,  
10 while under the direction of a member of the civil service as determined by the court or  
11 probation officer, Anyone convicted of dumping rubbish into the ocean or any other  
12 waterway, or of deliberately dumping broken glass and other potentially dangerous  
13 substances onto beaches or parkland, shall serve 1.5 times the duration of the community  
14 service sentence prescribed in this section.

15 (e) Upon conviction, any property, including but not limited to vehicles and hardware,  
16 used and personally owned by the actor to assist in committing an offense under this  
17 chapter,, may, at the sole discretion of the ECEU, be forfeited to the ECEU and either sold,  
18 or sold at auction to the highest bidder, whereupon the proceeds shall accrue to the ECEU.  
19 The ECEU may also retain and use forfeited property. If a minor uses property to commit  
20 an offense under this section, where such property is owned by the minor’s parent or  
21 guardian,, such property shall not be construed as subject to forfeiture.

1 (f) Any offender convicted under this section, shall pay the owner of the damaged  
2 property, three-times the cost of restoring the property to a condition that is as close as  
3 possible to its original state and appearance. The property owner must repair their property  
4 in accordance with the standards provided for hereunder within a reasonable time after  
5 receipt of payment, or the funds may be confiscated by the ECEU. This provision shall  
6 apply to both public and private property.

7 (I) The parent or guardian having custody of a minor who is convicted  
8 under this chapter, shall be jointly and severally liable with the minor for  
9 any civil fines and other monetary damages imposed, until the minor  
10 reaches the age of majority, at which time the former minor must repay to  
11 the State any costs incurred by the parent or legal guardian. The State shall  
12 use any payments collected from the former minor to reimburse the parent  
13 or legal guardian for costs they actually incurred as a result of the former  
14 minor's conviction under this chapter. The former minor shall have the  
15 option to make installment payments through wage garnishment, not to  
16 exceed 20 percent of the former-minor's pre-tax wages. The State may  
17 delegate collection and enforcement of such fines and other costs and  
18 penalties to any appropriate agency that exists in the State for collection of  
19 taxes and any outstanding amount owed by the former minor shall be  
20 construed as a tax lien.

21 (II) If the court orders payment for fines, restitution and other expenses  
22 incurred under this section, the court shall give due consideration to the financial

1 resources of the minor, the parents, or the legal guardians of the minor to  
2 ensure that they will be able to pay the costs of the damage. If the court  
3 determines that the minor, the parents, or the legal guardians of the minor  
4 are unable to pay the actual cost of the damage, the court may order  
5 payment in an amount for which they are able to pay or in a manner in  
6 which they are able to pay, and may order the minor to pay such fines upon  
7 reaching the age of majority, in accordance with §708-821(3)(c)(i).

8 (III) Any minor convicted and sentenced under this section, where the  
9 duration of their sentence continues after the minor's eighteenth birthday,  
10 must continue to serve and complete the sentence imposed upon them,  
11 whereupon the record of the former minor's conviction under this chapter  
12 may be expunged or sealed, pursuant to HRS laws, procedures, rules, and  
13 other practices that pertain to juvenile offenders and are in effect at the time  
14 when the offense was committed.

15 (g) Convicted offenders shall lose their driving privilege for 2 years, including the  
16 privilege to obtain a learner's permit. If the convicted defendant does not yet have a  
17 driver's license or permit, there shall be a 2 year delay from the date upon which that  
18 person otherwise would have been able to obtain a learner's permit or driver's license.

19 (h) Any person granted probation under this section, shall perform a total of 40 hours of  
20 community service for each week of probation granted, or pro-rated portion thereof.

1 (i) At the discretion of the probation officer or the court, the convicted offender may  
2 accrue their performance of community service hours sentenced under this chapter, at a  
3 greater or lesser rate than 40 hours per week, to accrue until the aggregate total hours of  
4 their community service sentence is fulfilled. Unless the convicted offender is physically  
5 unable to serve their community service time, he or she shall serve a minimum of 10 hours  
6 per week, and not required to perform community service in excess of 70 hours per week.

7 (j) The penalties imposed under this chapter shall be in addition to any other penalties that  
8 may be provided for under other laws, subject to the defendant's Constitutional protection  
9 from Double Jeopardy.

10 (k) Nothing in this chapter shall affect the right of any person to maintain a civil action  
11 arising out of damage to property as defined under this chapter, unless payments required  
12 to be made by the convicted offender to the owner of the damaged property under this  
13 chapter are paid, whereupon the aggregate amount of those payments that exceed the cost  
14 to repair the owner's property, are then to be counted as a credit toward any other  
15 damages claimed, so that the property owner would need to have suffered damages in  
16 excess of this amount in order to sustain a claim upon which relief could be granted.

17 (4) The following shall be affirmative defenses under this chapter:

18 (a) Defendant had consent of the owner in control of the property.

19 (b) Defendant was attempting in good-faith to eradicate graffiti or remove  
20 trash that was either not created or left by defendant, or was created or left  
21 by defendant accidentally or inadvertently and without malicious intent,  
22 whether or not defendant's attempts to remove trash, debris or graffiti were

1 successful.

2 (c) Defendant created graffiti or left trash or debris upon the property of  
3 another, accidentally or inadvertently and without malicious intent, but due  
4 to reasonable cause, was unable to make any attempt/s to remove such  
5 graffiti, trash or debris.

6 (5) Notwithstanding the punishments prescribed under this chapter, nothing hereunder  
7 shall be construed as infringing upon the discretion of prosecutors and the courts, to reduce  
8 or eliminate charges and sentences for offenders who cooperate with and assist law  
9 enforcement to catch other offenders, and/or who act in good-faith to otherwise prevent  
10 and reduce damage to property.

11 **SECTION 3.**

12 Volume 14, Division 5, CRIMES AND CRIMINAL PROCEEDINGS, Title 37. Chapter 708.  
13 OFFENSES AGAINST PROPERTY RIGHTS Part III. CRIMINAL DAMAGE TO PROPERTY,

14 **Statutory material to be repealed is bracketed and stricken.**

15 **Statutory material to be added is underscored.**

16 **§708-822 Criminal property damage in the third degree.**

17 (1) A person commits the offense of criminal property damage in the third degree if by means other than  
18 fire:

19 (a) The person recklessly damages the property of another, without the other's consent, by the  
20 use of widely dangerous means;

21 (b) The person intentionally ~~[or]~~ and knowingly damages the property of another, without the  
22 other's consent, in an amount exceeding \$500 but less than \$20,0000, where the definition of

1 “damage” and all of the provisions, requisites, terms and methods of calculation apply as defined  
 2 by §708-821; and/or

3 (c) The person intentionally damages the agricultural equipment, supplies, or products or  
 4 aquacultural equipment, supplies, or products of another, including trees, bushes, or any other  
 5 plant and livestock of another, without the other's consent, in an amount exceeding \$100. In  
 6 calculating the amount of damages to agricultural products, the amount of damages includes future  
 7 losses and the loss of future production.

8 (d) The term “damage” as used in this chapter shall also include the common meaning of doing  
 9 harm to property, where such harm is done deliberately and willfully, and/shall also include  
 10 deliberately or willfully dumping rubbish, litter, or any other noxious solid or liquid waste  
 11 products or chemicals, which in the aggregate exceeds 20, but is less than 100 pounds, or consist  
 12 of not less than 10 and not more than 20 pieces of any weight, upon the public or private property  
 13 of another, without a valid permit to do so, and without permission of the owner or the owner’s  
 14 representative.

15 (2) Criminal property damage in the third degree is a misdemeanor.

16 (3) For a conviction under this section, the sentence shall be:

17 (a)Subject to the the provisions of H.R.S. §706-663 pertaining to misdemeanors, where  
 18 the term of imprisonment shall not be less than thirty-days nor more than one year, or  
 19 alternate punishments pursuant to §706-605.5, which contains provisions that enable a  
 20 court under prescribed circumstances to sentence a person to a “**Program of regimental**  
 21 **discipline**”, equal to the time of the prison sentence required, instead of prison. Any  
 22 person so sentenced who willfully fails to fulfill the requirements of the above referenced

1 program of regimental discipline, may be discharged from the program by the person's  
2 probation officer, or by the court whereupon that person shall serve the remainder of their  
3 sentence in prison.

4 (b) A fine of at least \$10,000. but less than \$20,000.

5 (c) A surcharge of \$1,500. to be deposited into the graffiti database special fund as  
6 established by section §28-10.6(b)(2) of this act, which is to be administered by the  
7 special Environmental Crimes Enforcement Unit within the Department of the Attorney  
8 General,, established by this Act, hereinafter ("ECEU").

9 (d) 1200 hours of community service, where any person who willfully fails to fulfill their  
10 community service obligation may be required, at the discretion of the court, to serve a  
11 prison sentence in addition to other prison time prescribed in other sections of this chapter,  
12 in an amount equal to the amount of community service time that remains. For the purpose  
13 of this chapter, community service shall mean working to eradicate graffiti, illegally  
14 dumped rubbish and litter, or to perform other work involving the maintenance of public  
15 property, while under the direction of a member of the civil service as determined by the  
16 court or probation officer, Anyone convicted of dumping rubbish into the ocean or any  
17 other waterway, or of deliberately dumping broken glass and other potentially dangerous  
18 substances onto beaches or parkland, shall serve 1.5 times the duration of the community  
19 service sentence prescribed in this section.

20 (f) In addition to the foregoing provisions, a convicted offender shall be subject to the

1 other penalties, provisions, terms and definitions that apply under §708-821,

2 **SECTION 4.**

3 Volume 14, Division 5, CRIMES AND CRIMINAL PROCEEDINGS, Title 37. Chapter 708.

4 OFFENSES AGAINST PROPERTY RIGHTS Part III. CRIMINAL DAMAGE TO PROPERTY,

5 Hawaii Revised Statutes shall be amended as follows:

6 **Statutory material to be repealed is bracketed and stricken.**

7 **Statutory material to be added is underscored.**

8 **§708-823 Criminal property damage in the fourth degree.**

9 (1) A person commits the offense of criminal property damage in the fourth degree if by means other  
 10 than fire, the person intentionally or knowingly damages the property of another without the other's  
 11 consent in an amount not exceeding \$500. where the term “damage” as used in this chapter shall also  
 12 include the common meaning of doing harm to property, where such harm is done deliberately and  
 13 willfully, and/shall also include deliberately or willfully dumping rubbish, litter, or any other noxious  
 14 liquid or solid waste products or noxious chemicals which in the aggregate is not less than 1 pound and  
 15 does not exceed 20 pounds, or consists of not less than 2 pieces nor more than 10 pieces of any weight,  
 16 upon the public or private property of another, without a valid permit to do so, and without permission of  
 17 the owner or the owner’s representative. all the other provisions, requisites, terms and definitions of the  
 18 term “damage” as used in §708-821 apply; and/or

19 (c) The person intentionally damages the agricultural equipment, supplies, or products or  
 20 aquacultural equipment, supplies, or products of another, including trees, bushes, or any other  
 21 plant and livestock of another, without the other's consent, in an amount not exceeding \$100. In

1 calculating the amount of damages to agricultural products, the amount of damages includes future  
2 losses and the loss of future production.

3 (2) Criminal property damage in the fourth degree is a ~~petty~~ misdemeanor.

4 (3) For a conviction under this section, the sentence shall be:

5 (a)Subject to the provisions of H.R.S. §706-663 pertaining to misdemeanors, where the  
6 term of imprisonment shall be thirty-days or alternate punishments pursuant to §706-  
7 605.5, which contains provisions that enable a court under prescribed circumstances to  
8 sentence a person to a “**Program of regimental discipline**”, equal to the time of the  
9 prison sentence required, instead of prison, Any person so sentenced who willfully fails to  
10 fulfill the requirements of the above referenced program of regimental discipline, may be  
11 discharged from the program by the person’s probation officer, or by the court whereupon  
12 that person shall serve the remainder of their sentence in prison.

13 (b) A fine of at least \$5,000. but less than \$10,000.

14 (c) A surcharge of \$1,000. to be deposited into the graffiti database special fund as  
15 established by section §28-10.6(b)(2) of this act, which is to be administered by the  
16 special Environmental Crimes Enforcement Unit within the Department of the Attorney  
17 General,, established by this Act, hereinafter (“ECEU”).

18 (d) 600 hours of community service, where any person who willfully fails to fulfill their  
19 community service obligation may be required, at the discretion of the court, to serve a  
20 prison sentence in addition to other prison time prescribed in other sections of this chapter,

1 in an amount equal to the amount of community service time that remains. For the purpose  
2 of this chapter, community service shall mean working to eradicate graffiti, illegally  
3 dumped rubbish and litter, or to perform other work involving the maintenance of public  
4 property, while under the direction of a member of the civil service as determined by the  
5 court or probation officer. Anyone convicted of dumping rubbish into the ocean or any  
6 other waterway, or of deliberately dumping broken glass and other potentially dangerous  
7 substances onto beaches or parkland, shall serve 1.5 times the duration of the community  
8 service sentence prescribed in this section.

9 (f) In addition to the foregoing provisions, a convicted offender shall be subject to the  
10 other penalties, provisions, terms and definitions that apply under §708-821,

11 **SECTION 5.**

12 Volume 14, Division 5, CRIMES AND CRIMINAL PROCEEDINGS, Title 37. Chapter 708.  
13 OFFENSES AGAINST PROPERTY RIGHTS Part III. CRIMINAL DAMAGE TO PROPERTY,  
14 Hawaii Revised Statutes shall be amended as follows:

15 **Statutory material to be repealed is bracketed and stricken.**

16 **Statutory material to be added is underscored.**

17 **§708-823.5 Aggravated criminal property damage.**

18 (1)A person who is convicted a second time under any section of chapter 708-821, 708-822, or §708-823  
19 shall have the sentence and fines of their second conviction equal to 1.5 times that of the section they are

1 convicted of violating on their second conviction. A person who is convicted a third or more times under  
 2 any section of chapter 708-821, 708-822 or §708-823 shall have their sentence and fines of their third or  
 3 subsequent conviction equal to 2 times of the section they are convicted of violating on their third or  
 4 subsequent convictions.

5 (2)Nothing in this section shall prohibit an offender convicted under any section of chapter 708-821.,  
 6 708-822, or §708-823 from being subject to enhanced sentencing for repeat or habitual offenders under  
 7 other chapters of the HRS.

8 (3) For the purposes of this section, where the definition of the term “damage” shall be the same as that  
 9 under §708-821, an offender who is apprehended for vandalizing or otherwise damaging more than one  
 10 piece of property shall be tried on all counts of property damage known to prosecutors at the time of  
 11 charging . If at trial or through a plea agreement, the offender is found guilty on one or more counts of  
 12 property damage, it shall be considered one conviction. Additional property, previously unknown to  
 13 prosecutors that is discovered to have been damaged by an offender after trial and conviction may be  
 14 grounds for additional charges and convictions,

15 ~~commits the offense of aggravated criminal property damage if the person by means other than fire:~~

16 ~~(a) Intentionally damages the property of another without the other's consent; and~~

17 ~~(b) Has been convicted two or more times of an offense under section 708-822 or 708-823.~~

18 ~~(2) For purposes of this section, "convicted two or more times" means that, at the time of the instant~~  
 19 ~~offense, the person had previously entered a plea of guilty or no contest or a judge or jury had previously~~  
 20 ~~returned a verdict of guilty against the person for two or more offenses committed on separate occasions.~~

21 (3)-(2)Aggravated criminal property damage is a may be a misdemeanor or a felony depending upon  
 22 what section or sections of 708-821., 708-822, or §708-823 an offender is repeatedly convicted of, and

1 whether or not the calculation of a repeat offender's prison sentence equals less than or more than one  
2 year. -

3 **SECTION 6.**

4 Volume 14, Division 5, CRIMES AND CRIMINAL PROCEEDINGS, Title 37. Chapter 708.  
5 OFFENSES AGAINST PROPERTY RIGHTS Part III. CRIMINAL DAMAGE TO PROPERTY,  
6 Hawaii Revised Statutes shall be amended as follows:

7 **Statutory material to be repealed is bracketed and stricken.**

8 **Statutory material to be added is underscored.**

9 **§ 708-829. Criminal littering.**

10 (1) A person commits the offense of criminal littering if that person knowingly places, throws, or drops  
11 litter that weighs up to 1 pound or does not exceed 2 pieces of any weight, on any public or private  
12 property or in any public or private waters, except:

13 (a) In a place designated by the department of health or the county for the disposal of garbage and refuse;

14 (b) Into a litter receptacle;

15 (c) Into a litter bag; provided that the bag is disposed of properly into a litter receptacle or in a place  
16 designated by the department of health or the county for the disposal of garbage and refuse.

17 (2) "Litter" means rubbish, refuse, waste material, garbage, trash, offal, or debris of whatever kind or  
18 description, and whether or not it is of value, and includes improperly discarded paper, metal, plastic,

1 glass, or solid waste.

2 (3) Criminal littering is a petty misdemeanor.

3 (4) The court shall sentence any person convicted of committing the offense of criminal littering as  
4 follows:

5 (a) For the first offense, the person shall spend 60 [~~four~~] hours of either picking up litter on  
6 public property or performing other community service as determined by the court; and  
7 fined the sum of five-hundred dollars. Anyone convicted of dumping rubbish into the  
8 ocean or any other waterway, or of deliberately dumping broken glass and other  
9 potentially dangerous substances onto beaches or parkland, shall serve 1.5 times the  
10 duration of the community service sentence prescribed in this section.

11 (b) For any subsequent offense, the person shall spend 100 [~~eight~~] hours of either picking  
12 up litter on public property or performing community service as determined by the court;;  
13 and (e) ~~The court~~ shall fine the person convicted a second time of committing the offense  
14 of criminal littering at least \$1000 [~~\$500~~] but not more than [~~\$1,000~~]-\$2000.

15 (5) Penalties under this section imposed upon minors shall be subject to the same provisions as HRS  
16 chapter 708-821.

17 (5) [~~It shall be an affirmative defense that the defendant had consent of the owner in control of the~~  
18 ~~property.~~]-The same affirmative defenses that apply to HRS chapter 708-821 shall apply to this section.

1 **SECTION 7.**2 **Statutory material to be repealed is bracketed and stricken.**3 **Statutory material to be added is underscored.**4 [Division 3; Title 31, Chapter 577. CHILDREN §577-3.5. Property damage, parental responsibility,  
5 Hawaii Revised Statutes is repealed]6 ~~[Division 3. PROPERTY; FAMILY Title 31. FAMILY Chapter 577. CHILDREN. § 577-3.5. Property  
7 damage, parental responsibility. (a) The parents or legal guardians of a minor child shall be jointly and  
8 severally liable for graffiti damage caused by the minor to real or personal property, whether publicly or  
9 privately owned. As used in this section, "graffiti" means any unauthorized drawing, inscription, figure,  
10 or marking created by paint, ink, chalk, dye, or similar substances.~~11 ~~(b) In addition to any other lawful orders, if a minor is found under chapter 571 to have committed an act  
12 constituting graffiti, the court may order the minor, the parents, or the legal guardians of the minor to pay  
13 the actual cost of having the damaged property repaired or replaced and may order the minor to perform  
14 community service. If the court orders payment for the actual cost of the damage, the court shall give due  
15 consideration to the financial resources of the minor, the parents, or the legal guardians of the minor to  
16 ensure that they will be able to pay the costs of the damage. If the court determines that the minor, the  
17 parents, or the legal guardians of the minor are unable to pay the actual cost of the damage, the court may  
18 order payment in an amount for which they are able to pay or in a manner in which they are able to pay,  
19 and may order the minor to perform community service work in an amount commensurate with the costs  
20 of the damage for which they are unable to pay.~~

(c) ~~Nothing in this section shall affect the right of any person to maintain a civil action arising out of graffiti damage to property.~~

**SECTION 8.**

**Statutory material to be repealed is bracketed and stricken.**

**Statutory material to be added is underscored.**

Volume 8, Division 2, BUSINESS, Title 26, TRADE REGULATION AND PRACTICE, Chapter 489, Section 489X, Hawaii Revised Statutes, is amended to read as follows:

§489X-2. Sale of adult products; graffiti implements.

(A) No individual, company or entity (hereinafter "Entity") may sell, give, donate or promote spray paint, markers wider than ¼ inch, or tools that can be used to etch glass or metal items to any person under the age of 21, and the Entity selling or donating these items shall require any such prospective purchaser or donee that to a reasonable person appears to be 35 years old or younger, to show the Entity legal proof they are over the age of 21 before the Entity permits that person to acquire such items.

(B) Any Entity, who is convicted of violating section §489X-2.(a) or who sells, gives, or donates spray paint, markers wider than ¼ inch, or tools that are capable of etching glass or metal, or any other tools or implements where the purpose is reasonably contemplated to create graffiti, or where the Entity sells, gives or donates other items, products or engages in promotional activities of any kind that

1 are reasonably calculated to influence a person of any age to commit the crime of  
2 creating graffiti, and where a nexus can be established in a court of competent  
3 jurisdiction between a person or persons of any age who are convicted of creating  
4 graffiti under HRS chapter 708 et seq. and the Entity who engaged in acts described  
5 in this section, the Entity so charged shall be subjected to a rebuttable presumption  
6 that the Entity is vicariously liable to the State of Hawaii for 3 times the monetary  
7 value of damages suffered by the State, where the term “damage” and the  
8 calculation of the monetary value of such damage shall be the same as that under  
9 HRS chapter 708-821.

10 (C) Nothing in this chapter shall affect the right of any person to maintain a civil action  
11 against an Entity arising out of graffiti damage to personal property where a nexus  
12 can be established between that Entity and the person or persons convicted of  
13 causing such damage, in which case the individual maintaining the action shall  
14 benefit from the same recovery rights as the State as specified in §489X-2(B).

15 (D) For the purposes of this chapter, a nexus may exist between any Entity committing  
16 acts described in this chapter and any persons convicted of creating graffiti under  
17 HRS chapter 708-821 et seq., 708-822 et seq., or 708-823 et seq. In determining  
18 whether or not the Entity is vicariously liable, the court may consider whether or  
19 not the Entity’s promotion of the crime of graffiti may have influenced an offender  
20 to commit the crime he or she is convicted of, whether or not the offender has  
21 actually purchased or otherwise received any products or items from the Entity.

22 **SECTION 9.**

1 Statutory material to be repealed is bracketed and stricken.

2 Statutory material to be added is underscored.

3 [Division 3; Title 31, Chapter 577. CHILDREN §577-3.5. Property damage, parental responsibility,  
4 Hawaii Revised Statutes is repealed]

5 ~~[Division 3. PROPERTY; FAMILY Title 31. FAMILY Chapter 577. CHILDREN. § 577-3.5. Property~~  
6 ~~damage, parental responsibility. (a) The parents or legal guardians of a minor child shall be jointly and~~  
7 ~~severally liable for graffiti damage caused by the minor to real or personal property, whether publicly or~~  
8 ~~privately owned. As used in this section, "graffiti" means any unauthorized drawing, inscription, figure,~~  
9 ~~or marking created by paint, ink, chalk, dye, or similar substances.~~

10 ~~(b) In addition to any other lawful orders, if a minor is found under chapter 571 to have committed an act~~  
11 ~~constituting graffiti, the court may order the minor, the parents, or the legal guardians of the minor to pay~~  
12 ~~the actual cost of having the damaged property repaired or replaced and may order the minor to perform~~  
13 ~~community service. If the court orders payment for the actual cost of the damage, the court shall give due~~  
14 ~~consideration to the financial resources of the minor, the parents, or the legal guardians of the minor to~~  
15 ~~ensure that they will be able to pay the costs of the damage. If the court determines that the minor, the~~  
16 ~~parents, or the legal guardians of the minor are unable to pay the actual cost of the damage, the court may~~  
17 ~~order payment in an amount for which they are able to pay or in a manner in which they are able to pay,~~  
18 ~~and may order the minor to perform community service work in an amount commensurate with the costs~~  
19 ~~of the damage for which they are unable to pay.~~

20 ~~(c) Nothing in this section shall affect the right of any person to maintain a civil action arising out of~~

1 ~~graffiti damage to property.~~

2 **SECTION 10.**

3 There is appropriated out of the general revenues of the State of Hawaii the sum of  
4 \$\_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2009-2010 for logistical  
5 expenses incurred by shifting personnel and the reorganization of various departments.

6

7 **PART II**

8 **SECTION 11.**

9 Quick and eradication of Graffiti and illegal dumpsites, and restoring property to its original  
10 appearance are essential strategic components of this Act. Since the foregoing forms of blight are  
11 common on both private *and* public property, the benefits of quick eradication cannot be accomplished by  
12 abatement on public property alone. Accordingly, an essential component of this part is to grant the right  
13 to civil service Environmental Protection Teams (“EPT”s) created pursuant to this Act), non-violent  
14 offenders sentenced to community service, and volunteers, working directly under the civil service EPT’s  
15 supervision, (pursuant to this Act) and State Certified Environmental Volunteers (“SCEV”s) as  
16 established by this Act), the right to enter private property for the limited purpose of eradicating blight as  
17 defined hereunder, and to enjoy qualified immunity when doing so.

18 **SECTION 12.**

1 Statutory material to be repealed is bracketed and stricken.

2 Statutory material to be added is underscored.

3 Division 1, GOVERNMENT, Volume 2. Title 7., PUBLIC OFFICERS AND EMPLOYEES, §101-71  
4 Hawaii Revised Statutes, is amended to read as follows:

5 **§ 101-71. Taking private personal property for public use.**

6 In connection with the taking for public use of private real property, the State or any county may take for  
7 a public use private personal property which it deems necessary or convenient which has been  
8 permanently upon or has been used in connection with the real property being taken. Just compensation  
9 must be paid for personal property so taken. Actions under and by virtue of this section shall be  
10 commenced by filing a complaint and issuing a summons thereon. If an action is initiated for the taking of  
11 the real property, the action for the taking of the personal property must be joined to it. The complaint  
12 shall contain, with reference to the personal property sought to be condemned, a statement of the use to  
13 which the property is to be put and a description of the property and shall join as defendants all persons  
14 who are owners or claimants thereof. The procedure for the acquisition of private personal property shall,  
15 except as otherwise expressly provided in this section, be the same as in other actions brought under this  
16 chapter unless the provision by its terms is clearly inapplicable to the acquisition of personal property.

17 (A) Owners of all forms of property, whether real or chattel, are required to keep such property  
18 graffiti free, and free of illegally dumped trash, litter and free of "damage" as defined by HRS  
19 chapter 708-821 et seq. on a continuous basis. However, notwithstanding the requirements  
20 imposed upon property owners by this section, owners shall not be subjected to fines or other

1 forms of punishment for failing to eradicate illegally dumped trash , litter, or to repair “ damage”  
 2 as defined by HRS chapter 708-821 et seq. 708-822 et seq. or 708-823 et seq. when the person  
 3 who committed the offenses that are the subject of this section, is not the owner or not anyone  
 4 under the control of the owner.

5 (B) State and County agencies may authorize civil service employees, exempt employees,  
 6 Environmental Protection Teams (“EPT’s”) which are formed pursuant to HRS Title 9, §107-3 as  
 7 amended by this Act, and official State Certified Volunteers over the age of 21 (“SCV’s”),  
 8 pursuant to HRS Title 7, §90D-6(2)(B) as amended by this Act, to enter upon private land or  
 9 otherwise have access to other forms of property where it is reasonable to do so, for the express  
 10 purpose of eradicating graffiti, trash, litter, debris, and other waste products, and/or other public  
 11 nuisances and/or to correct or repair “damage” as defined in HRS chapter 708-821 et seq. The  
 12 costs incurred by the State in performing the tasks provided for in this section, shall not be  
 13 recovered from the property owner. when the person who committed the offense creating the  
 14 conditions that are the subject of this section, is not the owner or is not anyone under the control  
 15 of the owner.

16 (C) No person granted access to private property under this chapter shall be permitted to enter the  
 17 interior of any structure or vehicle. This section only permits access to the exterior of property.

18 (D) No person granted access to private property under this chapter shall be permitted to purposely  
 19 violate the privacy of any owner or the owner’s guests.

20 (E) No person granted access to private property under this chapter shall be permitted access to enter  
 21 upon private land before 9 AM or after 5 PM,

22 (F) No person granted access to private property under this chapter is entitled to create a nuisance.

1 (G) No person may be granted access to any private property under this chapter when the owner has  
 2 asked that person to leave, or to otherwise cease and desist, in which case the owner shall  
 3 promptly ensure their property is made graffiti free, and free of illegally dumped trash , litter and  
 4 free of “ damage” as defined by HRS chapter 708-821 et seq.

5 (H) No person granted access to private property while engaged in any good-faith activity consistent  
 6 with the purposes of this section. shall be liable to any property owner, for any injury or damage  
 7 or loss to property or persons caused in connection with such access, except for injury or damage  
 8 resulting from the gross negligence or wanton acts or omissions committed by that person..

9 (I) No private property owner shall be liable for any injury , damage or loss, sustained to a person or  
 10 that person’s property who is granted access to that owner’s property under this section, and no  
 11 invitee status shall be conveyed upon that person, whether or not permission to enter was  
 12 expressed or implied by owner, except for injury or damage or loss to that person resulting from  
 13 the gross negligence or wanton acts or omissions committed by owner.

14 (J) For purposes of this section: a “person” is a member of a State authorized EPT, as provided by this  
 15 Act, or a member of the civil service or exempt employee authorized by the State to eradicate  
 16 graffiti, trash, debris, waste products, litter, or to repair “damage” as defined under chapter 708-  
 17 821 et seq. or a person who manages, or otherwise engages in property maintenance projects  
 18 pursuant to HRS Title 9. §107-3 as amended under this Act and SCV, pursuant to . HRS Title 7.  
 19 §90D-6 as amended by this Act. “Owner”, means an individual, company, corporation,  
 20 partnership, community group, or other legal entity that owns private real property or chattel  
 21 property of any kind..

22 **SECTION 13.**

1 Statutory material to be repealed is bracketed and stricken.

2 Statutory material to be added is underscored.

3 Division 1. GOVERNMENT, Title 7., PUBLIC OFFICERS AND EMPLOYEES, Section § 90D-6 (*re:*  
4 *commission on volunteering*) Hawaii Revised Statutes is amended as follows:

5 **§ 90D-6. Powers, duties, and functions.**

6 The commission shall:

- 7 (1) Ensure that its funding decisions meet all federal and state statutory requirements;
- 8 (2) Recommend innovative, creative, statewide service programs to increase volunteer participation in  
9 all age groups and community-based problem-solving among diverse participants;

10 (A) The commission shall create, supervise and promote a State-wide program, that shall  
11 where the interests of efficiency and financial prudence, include, encompass, supersede  
12 and replace any other State-wide volunteer programs that exist for the same purposes  
13 contemplated in the section, where individuals can volunteer on an ad-hoc or continual  
14 basis to clean trash , debris and graffiti from all public property, and:

15 (i) In addition to providing opportunities for volunteers to work alone or  
16 along with other volunteers, the commission shall create and implement a  
17 plan for volunteers to be supervised by working with and for members of  
18 the civil service who clean trash, debris and graffiti. Volunteers while under

1 the supervision of members of the civil service may enter onto private land  
2 for the express purpose of cleaning debris, trash and graffiti, and while so  
3 engaged, shall be immune from civil liability to the property owner.

4 (B) The commission shall create, supervise and promote a State-wide program, under the  
5 supervision of the Attorney General, a program for individuals over the age of 21, who  
6 wish to become so-called “ State Certified Environmental Volunteers” (hereinafter  
7 “SCEV”).

8 (i) In order for a volunteer to be certified as a SCEV, he or she shall  
9 undergo a criminal background check, and a training program to learn  
10 proper use of equipment and the safe removal of trash, debris and graffiti.

11 (ii) The criteria and methodology of the criminal background check shall be  
12 developed with the guidance of the Attorney General.

13 (iii) Any volunteer who fulfills the criteria of the criminal background  
14 check, and successfully completes the training program referred to in  
15 section (ii), shall be issued an official State Certified Environmental  
16 Volunteer Identification card.

17 (iv) SCEV’s shall be entitled to also procure implements for volunteers  
18 such as rakes, trash bags, paint and paint removing chemicals. SCEV’s shall  
19 be entitled to enter onto private property, without permission from the  
20 owner, or the owner’s representative, whether or not they are being

1 supervised by a member of the State Civil Service, for the express purpose  
2 of cleaning debris, trash and graffiti, and while so engaged, shall enjoy  
3 qualified immunity from civil or criminal liability.

4 (v) SCEV's shall carry their official State-issued SCEV identification card,  
5 which they shall show to any peace officer, property owner, or property  
6 owner's representative upon request. SCEV's shall leave the property upon  
7 request of the owner or owner's representative. SCEV's shall always do  
8 their utmost to obey all laws, carry out their volunteer work in a safe and  
9 non-obtrusive manner, and to leave any property, public or private, in  
10 better condition than they found it, and shall obey all applicable laws.

11 (vi) The commission may choose any name for the SCEV program it finds  
12 suitable. Nothing in this section shall be construed as requiring the  
13 commission to name the state certified volunteer group SCEV, or State  
14 Certified Environmental Volunteers.

15 (C) The commission shall investigate the possibility of granting homeless families and  
16 other indigent persons, the right to camp on a semi-permanent basis in State and County  
17 parks, who become part of the SCEV program, and assist the Civil Service with their  
18 duties keeping the park graffiti and rubbish-free. The commission shall implement such a  
19 program if it determines that it is practical to do so.

20 (D) The commission shall work with the Department of Education on the creation and

- 1        implementation of a State-wide program for children to volunteer on an ad-hoc or  
2        continual basis to clean trash , debris and graffiti from public property.
- 3        (3)     Prepare a national three-year service plan for the State, which follows state and federal guidelines;
- 4        (4)     Develop and implement a centralized, organized system of obtaining information and technical  
5        support concerning volunteerism and community service recruitment, projects, training methods,  
6        materials, and activities throughout Hawaii and share the information and support upon request;
- 7        (5)     Promote strong interagency collaboration as an avenue for maximizing resources and provide that  
8        model on the state level;
- 9        (6)     Provide public recognition and support of individual volunteer efforts and successful or promising  
10       private sector initiatives and public-private partnerships that address community needs;
- 11       (7)     Stimulate increased community awareness of the impact of volunteer services in Hawaii;
- 12       (8)     Use local, state, and federal resources to reinforce, expand, and initiate quality service programs;
- 13       (9)     Serve as the States liaison and voice to appropriate national and state organizations that support its  
14       mission;
- 15       (10)   Prepare the State's applications under Title 42 United States Code section s 12543 and 12582, as  
16       amended;
- 17       (11)   Assist in the preparation of the department of education's application for assistance under Title 42

1 United States Code section 12525;

2 (12) Prepare the States application under Title 42 United States Code section 12582, as amended, for  
3 approved national service positions;

4 (13) Make technical assistance available to enable applicants for assistance under Title 42 United  
5 States Code section 12571, as amended, to plan and implement service programs and to apply for  
6 assistance under the federal service laws such as the federal National Services Trust Program;

7 (14) Assist in the provision of health care and child care benefits under Title 42 United States Code  
8 section 12594, as amended, to participants in national service programs that receive assistance under Title  
9 42 United States Code section 12571, as amended;

10 (15) Develop a state system for the recruitment and placement of participants in programs that receive  
11 assistance under the national service laws and disseminate information concerning national service  
12 programs that receive the assistance of approved national service positions;

13 (16) Administer the States grant program in support of national service programs (using assistance  
14 provided to the State under Title 42 United States Code section 12571, as amended) including selection,  
15 oversight, and evaluation of grant recipients;

16 (17) Coordinate its functions (including recruitment, public awareness, and training activities) with any  
17 division of the federal ACTION program or the Corporation for National and Community Services that  
18 carries out volunteer service programs in the State; and

19 (18) Comply with the requirements and duties of the commission as provided by Title 42 United States

1 Code section 12638, as amended.

2 **PART III**

3 **SECTION 14.**

4 The legislature finds that timely, or near immediate, removal of graffiti and illegal dumpsites  
 5 severely reduces incidents of vandalism. Prompt removal of Graffiti deprives vandals of the egotistical  
 6 exuberance they derive from having their markings remain in public view, and what they perceive as  
 7 victory over established authority. Many studies from across the United States, Western Europe and  
 8 Australia, show that prompt removal of graffiti is the single most important component of any successful  
 9 eradication program.<sup>4</sup> Conversely, many of these studies show that if graffiti *is not removed quickly*, its  
 10 very presence has a symbiotic effect that encourages others to create even more graffiti.

11 Litter, and illegally dumped trash has the same self-perpetuating, symbiotic effect as graffiti.  
 12 Dozens of studies show that dumpers and those who litter, are far less likely to offend in pristine areas,  
 13 and far more likely to offend in an area already rife with debris. These findings are consistent with  
 14 anecdotal experience here in Hawai`i.

15 Furthermore, there is substantial data showing a symbiotic relationship between different types of  
 16 blight. In other words; people are more likely to dump their trash illegally at a location covered with  
 17 graffiti, and taggers are more likely to create graffiti in a location rife with litter and rubbish. Accordingly,  
 18 the central purpose of Part III of this Act, is to: 1) Ensure that graffiti, illegally dumped trash and litter is  
 19 completely eradicated within 12 to 24 hours; 2) Ensure that the original appearance of damaged property

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<sup>4</sup> For a review of studies mentioned above but not sighted, SEE: **Research in Support of Proposed Legislation; For the benefit of the Legislature for the State of Hawai`i; “Graffiti In The State of Hawaii; How It Can Be Eliminated; and Why It Makes Sense to Combine This With Measures to Combat Illegal Dumping and Litter”**; (this comprehensive study is either attached hereto or available on [www.MalamaAinaAct.org](http://www.MalamaAinaAct.org) or by emailing Mike Goodman at [Mike@UtopiaPacific.com](mailto:Mike@UtopiaPacific.com))

1 is restored, either by removing graffiti (which is preferable), or covering it with matching paint or other  
2 materials; 3) Educate the public about the social and economic consequences of blight.

3 **SECTION 15.**

4 **Statutory material to be repealed is bracketed and stricken.**

5 **Statutory material to be added is underscored.**

6 Division 1 GOVERNMENT, Title 4 STATE ORGANIZATION AND ADMINISTRATION, Chapter 28,  
7 ATTORNEY GENERAL, Hawaii Revised Statutes is amended to read as follows:

8 **§28-10.6 Crime research, prevention, and education; administrator and staff.**

9 (a) The department of the attorney general shall initiate, develop, and perform or coordinate programs,  
10 projects, and activities, as determined by the attorney general, on the subject of crime, including but not  
11 limited to crime research, prevention, and education. The attorney general may:

12 (1) Research, evaluate, and make recommendations regarding crime, crime prevention, and  
13 the criminal justice system to the governor, the legislature, the judiciary, criminal justice  
14 agencies, or the general public, as appropriate;

15 (2) Develop and implement or coordinate statewide crime prevention programs and  
16 activities including:

17 (A) Providing crime prevention training programs for law enforcement  
18 agencies, citizens, businesses, and civic groups; and

19 (B) Assisting in the organization of crime prevention teams in communities  
20 to encourage the development of community crime prevention programs;

1 (3) Develop public education programs through various broadcast or print media to  
2 provide to the general public information that will assist citizens in developing the  
3 knowledge and confidence to prevent crime and to avoid becoming victims of crime;

4 (4) Establish, as deemed by the attorney general to be necessary or appropriate, citizen and  
5 government agency representative study teams to study specific crime subjects or criminal  
6 justice system problems, in order to obtain input or advice from a more specialized  
7 segment of the criminal justice or public community on those specific matters; and

8 (5) Establish trust funds or accounts and receive and expend financial grants and donations  
9 for crime research, prevention, or education.

10 (b) The attorney general may employ, without regard to chapter 76, and at the attorney general's pleasure  
11 dismiss, an administrator to oversee and carry out the programs, projects, and activities on the subject of  
12 crime, as set forth in subsection (a).The attorney general may also employ other support staff, in  
13 accordance with chapter 76, necessary for the performance or coordination of the programs, projects, and  
14 activities on the subject of crime.

15 (6) There is to be established an Environmental Crimes Unit (hereinafter "ECU") to be  
16 administered by the Attorney General, that shall develop or delegate the development of  
17 methodologies and technology to investigate, apprehend and prosecute or refer to other law  
18 enforcement agencies and prosecutors , the identities and suspected activities of persons,  
19 companies, or entities suspected of committing offenses under HRS chapter s 708-821 et  
20 seq., 708-822 et seq., 708-823 et seq., and chapter 489X-2 et seq.

21 (7) There is established a fund to be directed and managed within the Department of the  
22 Attorney General, called the Environmental Crimes and Graffiti Database Fund to assist in  
23

1 funding the operations of a database also under the direction of the Attorney General, for  
2 law enforcement officials and prosecutors both within and outside of the Department of the  
3 Attorney General, to use in identifying, apprehending and prosecuting persons,  
4 companies, or entities suspected of committing offenses under HRS chapter s 708-821 et  
5 seq., 708-822 et seq., 708-823 et seq., and chapter 489X-2 et seq. or this chapter. The  
6 content and specific uses of this database shall be determined by the Attorney General and  
7 other law enforcement officials where appropriate. In general, the purpose of the database  
8 is to record and track images of vandals' so-called "monikers" or "gang signs" which are  
9 unique to each individual tagger or gang, and can be used to track and prosecute vandals.  
10 Websites used to promote graffiti and the sale of graffiti implements and websites where  
11 taggers and gang members upload images of graffiti, should be used as a way to track,  
12 locate and prosecute vandals and the companies or entities who own these website  
13 domains who are vicariously liable to the State for promoting and selling graffiti  
14 implements in violation of §489X-2 of this Act. Proceeds from the fund may be used in a  
15 manner as determined by the Attorney General.

16 (a) Pursuant to this section and under HRS chapters 708-821 through 708-  
17 823 et seq., the Environmental Crimes Enforcement Unit ("ECEU") may,  
18 at its' sole discretion, confiscate forfeited property, keep, sell, auction or  
19 otherwise dispose of such property, and collect fines and other surcharges  
20 as provided in the HRS chapters cited in this section, whereupon the income  
21 shall accrue to the ECEU.

1 **SECTION 16.**

2 **Statutory material to be repealed is bracketed and stricken.**

3 **Statutory material to be added is underscored.**

4 Division 1., GOVERNMENT, Volume 2. Title 9, PUBLIC PROPERTY, PURCHASING AND  
5 CONTRACTING, Section §107-3 Hawaii Revised Statutes is amended to read as follows:

6 **§ 107-3. The powers and duties of the department of accounting and general services shall include:**

7 (1) The powers and duties heretofore attached to the surveyor general, except such as relate to the  
8 geodetic survey of the Hawaiian Islands;

9 (2) The surveying, locating land boundaries, triangulation, mapping, subdividing, studying land titles  
10 and boundaries, preparing metes and bounds descriptions, marking land boundaries, and other work  
11 related thereto of all lands owned, controlled or in the possession of the State, when such action is  
12 required in order to use, sell, lease, exchange, or improve such lands, and, when requested, the performing  
13 of similar services with regard to private lands to be acquired by the State for public purposes;

14 (3) Collaborating with the state departments and agencies in acquiring lands required by the State for  
15 public purposes, the cost in connection therewith to be borne by the department or agency acquiring the  
16 land.

17 (4) The department shall develop and implement a plan, in concert with the Legislature, and through  
18 consultation with employee unions as required by section 89 et seq. and under advisement from the

1 Department of the Attorney General, to merge where appropriate, all of the various divisions throughout  
2 the state responsible for refuse collection, bulky item collection, trash and litter removal, sanitation  
3 ,graffiti removal, and other related job descriptions, into a single managed division responsible for  
4 keeping neighborhoods, parks and beaches in pristine condition.

5 (A.) Organize employees who are currently responsible for graffiti removal, litter removal,  
6 bulky item removal and trash removal into teams referred to as Environmental Protection  
7 Teams (hereinafter “EPT” or “EPT’s”) who will be responsible for keeping discreet  
8 geographical territories, divided along the current jurisdictional boundaries of existing  
9 community boards, clear of graffiti, trash, litter, waste products and other debris.

10 (B) EPT members may where practical, supervise and be assisted by volunteers, and non-  
11 violent offenders who are sentenced to community service.

12 (C) The division shall attempt to implement a financial incentive program where possible, to  
13 encourage teams who are proactive or show ingenuity.

14 (D) To encourage efficiency, the division should attempt to implement policies that permit  
15 EPT members to benefit from being efficient, quick, and industrious. EPT’s who perform  
16 their duties in a particularly efficient manner, and as a result, have no work left on a  
17 particular day, should, if practical, be able to benefit by permitting some individuals to go  
18 home early, or take extended breaks without a reduction in pay.

19 1. Each division supervisor and the EPT, shall report and be accountable to the

1           community board in charge of their jurisdiction.

2           2. Each EPT member shall

3           (a) Communicate regularly with other team members, and inform each other of  
4           locations where there is litter, debris and graffiti.

5           (b) Team members responsible for graffiti eradication and litter removal, shall  
6           proactively inspect their geographic territory, both private and public  
7           property, checking hidden areas on public property in addition to those that  
8           are visible from the street. The territory they are responsible for extends to  
9           the edge of any body of water, however, EPT's are responsible for  
10          reporting any sign of debris or pollution in the water to the appropriate  
11          agency.

12          (c) The division and EPT's shall first and foremost, maintain a goal of  
13          removing all litter, graffiti, illegally dumped trash and waste, within 12  
14          hours or less. Additional personnel, equipment and resources should be  
15          provided if needed if funds are available to do so. If additional resources are  
16          not available, the division and EPT shall work with the community board in  
17          charge of their jurisdiction to develop better strategies, secure the services  
18          of volunteers, have the community assist the police to catch offenders and  
19          obtain donations to pay for additional resources.

20          (d) Personnel responsible for graffiti removal should work in groups of at least

1                   two to three individuals and should be provided with:

2                   (i)     A vehicle equipped with the hardware needed to remove graffiti  
3                   quickly and efficiently, or paint over graffiti, utilizing technology to  
4                   match the color of the surface being painted. EPT's shall do their  
5                   utmost to restore surfaces to their original appearance . The division  
6                   shall research and enter into agreements with private vendors if  
7                   necessary, to procure the technology , equipment and hardware  
8                   necessary to accomplish this goal..

9                   (ii)    Provide training to personnel as needed, including techniques for  
10                  matching painted surfaces.

11                  (iii)   Provide EPT's with digital cameras to photograph graffiti, and  
12                  illegally dumped trash before removing it. Such photographs are to  
13                  be provided to the Land Crimes Enforcement Unit of the  
14                  Department of the Attorney General, where photos of graffiti shall  
15                  be added to the "Environmental Crimes And Graffiti Database"  
16                  pursuant to HRS Title 4, Chapter 28, §28-10.6, as provided under  
17                  this Act.

18           (E)     The department shall grant team members similar authority granted to Parking and  
19           Security Officers II; where

20                   (1)     EPT members should have the authority to ticket anyone they catch

1 littering, and to detain individuals caught creating graffiti or illegally  
2 dumping trash pending arrival of law enforcement personnel for arrest and  
3 prosecution.

4 (2) EPT members may also gather evidence such as eye-witness  
5 testimony, and other forms of evidence in order to assist law enforcement in  
6 apprehending and prosecuting offenders.

7 (3) No EPT member shall be required to exercise any of the powers  
8 granted to them in this section, if in their sole judgment, they will be  
9 exposing themselves to any form of harm or danger.

10 **SECTION 17.**

11 There is appropriated out of the general revenues of the State of Hawaii the sum of  
12 \$\_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2009-2010 for logistical  
13 expenses incurred by shifting personnel and the reorganization of various departments.

14 **SECTION 18.**

15 **Statutory material to be repealed is bracketed and stricken.**

16 **Statutory material to be added is underscored.**

17 Volume 4, PLANNING AND ECONOMIC DEVELOPMENT, Title 13, PLANNING AND ECONOMIC  
18 DEVELOPMENT, Part I §201-5

1    **§ 201-5. Promotion director and employees.**

2           The director of business, economic development, and tourism shall employ a promotion director  
 3    who shall be experienced in industrial and economic promotional activities, and who shall be exempt  
 4    from chapter 76. The director of business, economic development, and tourism may employ other persons  
 5    and the director shall determine their qualifications, duties, and compensations subject to chapter 76. The  
 6    compensation of the promotion director shall be determined by the director of business, economic  
 7    development, and tourism.

8           (A.)    The promotional director shall devise and implement a publicity campaign to educate the  
 9           general public about the social and economic costs of graffiti, illegal dumping and litter.]

10   **SECTION 19.**

11           **Statutory material to be repealed is bracketed and stricken.**

12           **Statutory material to be added is underscored.**

13    Volume 5, Title 18 EDUCATION, Chapter 302A Part II PROVISIONS AFFECTING STUDENTS, B.  
 14    CURRICULUM AND INSTRUCTION § 302A-321 Hawaii Revised Statutes, is amended as follows:

15    **§ 302A-321. Standards-based curriculum.**

16    (a)    When developing a standards-based curriculum and implementing it in a school or complex, at the  
 17    minimum, the curriculum shall:

18    (1)    Be specific in its standards-based scope and sequence over a school year for each grade level and

1 course;

2 (2) Be consistent in course content;

3 (3) Be aligned across all grade levels;

4 (4) Specifically address the state content and performance standards and related benchmark maps; and

5 (5) Be implemented in all appropriate classrooms in the school or complex.

6 (b) School complexes may choose to develop an articulated and aligned K-12 standards-based  
7 curriculum in one or more of the following core content areas:

8 (1) Language arts;

9 (2) Mathematics;

10 (3) Science; ~~and~~

11 (4) Social studies~~[-.]~~; and

12 (5) Courses in ethics shall be added to the social studies program that include lessons on  
13 the principles of individual property rights, and how the rights of an individual are  
14 inextricably tied to the property rights of that individual. In particular; how a civil society  
15 cannot function without mutual respect for the property rights of others; course work  
16 relating the concept to the students ' personal property; how they would feel if something  
17 they cared about was stolen, vandalized or just aesthetically altered without their

1 permission; how a person's freedom is compromised in an environment where there is a  
2 high degree of theft and vandalism.

3 (c) School complexes shall provide professional development.

4 (d) School complexes that develop a standards-based curriculum shall use standards-based  
5 formative assessment tools to monitor student progress, not less than on a quarterly basis  
6 throughout the school year.

7 (e) School complexes shall develop rigorous classroom-based performance assessments.

8 (f) School complexes may implement software programs at the school level to help to align  
9 school course material with Hawaii content and performance and federal educational standards.

10 **SECTION 20.**

11 This Act shall take effect July 1, 2010.

12  
13  
14  
15 **INTRODUCED BY:** \_\_\_\_\_  
16 *(BY REQUEST)*