

COUNCIL OF THE COUNTY OF MAUI
HUMAN CONCERNS AND PARKS
COMMITTEE

October 1, 2021

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Human Concerns and Parks Committee, having met on September 16, 2021, makes reference to County Communication 21-78, from Councilmember Gabe Johnson, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING THE MINIMUM FINE FOR CERTAIN VIOLATIONS RELATING TO PARKS AND RECREATIONAL FACILITIES."

The proposed bill's stated purpose is to repeal the mandatory minimum fine of \$150 for being in a park between 10:00 p.m. and 6:00 a.m. or when closed to the public.

By correspondence dated September 13, 2021, the Department of Parks and Recreation transmitted a revised proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING SECTION 13.04A.270, MAUI COUNTY CODE, RELATING TO REPEALING THE MINIMUM FINE FOR CERTAIN VIOLATIONS RELATING TO PARKS AND RECREATIONAL FACILITIES."

The revised proposed bill's purpose is to repeal the mandatory minimum fine of \$150 for being in a park between 10:00 p.m. and 6:00 a.m. or when closed to the public.

Your Committee discussed the revised proposed bill.

Your Committee supported providing more flexibility in imposing penalties for being in a park between 10 p.m. and 6 a.m. or when closed to the public.

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Your Committee discussed that removing the mandatory minimum fine requirement may help to stop the criminalization of being homeless, while being able to maintain operations in County parks.

The Prosecuting Attorney confirmed that between the period January 1, 2019 to December 1, 2020, 170 citations were issued under Section 13.04A.270, Maui County Code, to individuals that identify as homeless. In contrast, two citations were issued for the same time period to individuals who did not identify as homeless.

Your Committee notes the Department of Parks and Recreation consulted with the Department of the Prosecuting Attorney, Department of Housing and Human Concerns, and Department of the Corporation Counsel, who all expressed their support.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Kama, Vice-Chair Sugimura, and members Lee, Paltin, and Sinenci voted “aye.”

Your Committee is in receipt of a revised proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 13.04A.270, MAUI COUNTY CODE, REPEALING THE MINIMUM FINE FOR CERTAIN VIOLATIONS RELATING TO PARKS AND RECREATIONAL FACILITIES,” approved as to form and legality by the Department of the Corporation Counsel, and incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Human Concerns and Parks Committee RECOMMENDS the following:

1. That Bill _____(2021), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 13.04A.270, MAUI COUNTY CODE, REPEALING THE MINIMUM FINE FOR CERTAIN VIOLATIONS RELATING

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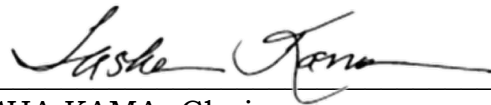
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TO PARKS AND RECREATIONAL FACILITIES,” be PASSED
ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 21-78 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



TASHA KAMA, Chair

hcp:cr:21030aa:lma

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 13.04A.270, MAUI COUNTY CODE, REPEALING THE MINIMUM FINE FOR CERTAIN VIOLATIONS RELATING TO PARKS AND RECREATIONAL FACILITIES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this Ordinance is to provide more flexibility in imposing penalties for being in a park between 10:00 p.m. and 6:00 a.m. or when closed to the public. This flexibility is needed in cases involving persons experiencing homelessness, where a mandatory minimum fine of \$150 could be excessive, ineffective, and counterproductive.

SECTION 2. Section 13.04A.270, Maui County Code, is amended to read as follows:

“A. Anyone who violates any provision of this chapter, except sections 13.04A.070(B)(1), 13.04A.070(E), 13.04A.260, or 13.04A.360 shall, upon conviction, be subject to a fine of [not] no less than [\$150.00] \$150 and [not] no more than [\$500.00.] \$500.

B. Anyone who violates section 13.04A.070(B)(1) shall, upon conviction, be subject to a fine of no more than \$500.

[B] C. Anyone who violates section 13.04A.070(E) shall, upon conviction, be subject to a fine of [not] no less than [\$50.00] \$50 and [not] no more than [\$500.00.] \$500.

[C] D. Anyone who violates section 13.04A.260 shall, upon conviction, be guilty of a petty misdemeanor as defined in section 701-107, [Hawaii] Hawai‘i Revised Statutes, and is subject to a fine of up to [\$1,000.00] \$1,000, [and] imprisonment for a term not to exceed thirty days, or both.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Mimi Desjardins

MIMI DESJARDINS
Department of the Corporation Counsel
County of Maui
hcp:misc:030abill01_revised:lma
LF2021-0014
HCP-30 2021-09-22 Ord Amd Section
13.04A.270