
A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE
STATE OF HAWAII RELATING TO SEXUAL ASSAULT.

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

1 SECTION 1. The purpose of this Act is to propose an
2 amendment to article I of the Constitution of the State of
3 Hawaii to provide that the legislature may define what behavior
4 constitutes a continuing course of conduct in continuous sexual
5 assault crimes against minors younger than fourteen years of age
6 and what constitutes the jury unanimity that is required for a
7 conviction.

8 Under current Hawaii law, it is difficult to prosecute
9 those who repeatedly sexually assault a child, because of the
10 difficulty young children have in remembering the individual
11 dates on which they were sexually assaulted. This amendment
12 would allow the legislature to enact a law that would permit
13 juries to convict a person of the continuous sexual assault of a
14 minor younger than fourteen years of age, if each member of the
15 jury was convinced beyond a reasonable doubt that the defendant
16 had sexually assaulted the child the required number of times
17 (such as three), even if there were not unanimity as to the



1 individual assaults. This would make it easier to prosecute
2 those who repeatedly sexually assault a child.

3 The legislature passed such a law in 1997, but that law was
4 invalidated by the Hawaii supreme court. An amendment similar
5 to this amendment was proposed to the voters in 2004 and the
6 amendment was invalidated by the Hawaii supreme court.

7 SECTION 2. Article I of the Constitution of the State of
8 Hawaii is amended by adding a new section to be appropriately
9 designated and to read as follows:

10 **"SEXUAL ASSAULT CRIMES AGAINST MINORS**

11 **Section** . In continuous sexual assault crimes against
12 minors younger than fourteen years of age, the legislature may
13 define:

14 1. What behavior constitutes a continuing course of
15 conduct; and

16 2. What constitutes the jury unanimity that is required
17 for a conviction."

18 SECTION 3. The question to be printed on the ballot shall
19 be as follows:

20 "Shall the Constitution of the State of Hawaii be amended
21 to provide that in continuous sexual assault crimes against



1 minors younger than fourteen years of age, the legislature
2 may define:

3 (1) What behavior constitutes a continuing course of
4 conduct; and

5 (2) What constitutes the jury unanimity that is required
6 for a conviction?"

7 SECTION 4. New constitutional material is underscored.

8 SECTION 5. This amendment shall take effect on July 1,
9 2020, and upon compliance with article XVII, section 3, of the
10 Constitution of the State of Hawaii.



SB 2246 SDI

HD2

Report Title:

Sexual Assault Crimes; ConAm

Description:

Proposes an amendment to article I of the State Constitution to provide that the Legislature may define what behavior constitutes a continuing course of conduct in sexual assault crimes against minors younger than fourteen years of age, and that the Legislature may define what constitutes the unanimity that is required for a conviction in sexual assault crimes. (Rabago case). Effective July 1, 2020. (SB2246 HD2)

