

JAN 23 2006

A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT.

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

1 SECTION 1. Chapter 707, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§707- Continuous sexual assault of a minor under the
5 age of fourteen years. (1) A person commits the offense of
6 continuous sexual assault of a minor under the age of fourteen
7 years if the person:

8 (a) Either resides in the same home with a minor under the
9 age of fourteen years or has recurring access to the
10 minor; and

11 (b) Engages in three or more acts of sexual penetration or
12 sexual contact with the minor over a period of time,
13 while the minor is under the age of fourteen years.

14 (2) To convict under this section, the trier of fact, if a
15 jury, need unanimously agree only that the requisite number of
16 acts have occurred; the jury need not agree on which acts
17 constitute the requisite number.



1 (3) No other felony sex offense involving the same victim
 2 may be charged in the same proceeding with a charge under this
 3 section, unless the other charged offense occurred outside the
 4 time frame of the offense charged under this section or the
 5 other offense is charged in the alternative. A defendant may be
 6 charged with only one count under this section unless more than
 7 one victim is involved, in which case a separate count may be
 8 charge for each victim.

9 (4) Continuous sexual assault of a minor under the age of
 10 fourteen years is a class A felony."

11 SECTION 2. Section 707-733.5, Hawaii Revised Statutes, is
 12 repealed.

13 ~~["§707-733.5] Continuous sexual assault of a minor under~~
 14 ~~the age of fourteen years. (1) Any person who:~~

15 ~~(a) Either resides in the same home with a minor under the~~
 16 ~~age of fourteen years or has recurring access to the~~
 17 ~~minor; and~~

18 ~~(b) Engages in three or more acts of sexual penetration or~~
 19 ~~sexual contact with the minor over a period of time,~~
 20 ~~but while the minor is under the age of fourteen~~
 21 ~~years,~~

1 ~~is guilty of the offense of continuous sexual assault of a minor~~
2 ~~under the age of fourteen years.~~

3 ~~(2) To convict under this section, the trier of fact, if a~~
4 ~~jury, need unanimously agree only that the requisite number of~~
5 ~~acts have occurred; the jury need not agree on which acts~~
6 ~~constitute the requisite number.~~

7 ~~(3) No other felony sex offense involving the same victim~~
8 ~~may be charged in the same proceeding with a charge under this~~
9 ~~section, unless the other charged offense occurred outside the~~
10 ~~time frame of the offense charged under this section or the~~
11 ~~other offense is charged in the alternative. A defendant may be~~
12 ~~charged with only one count under this section unless more than~~
13 ~~one victim is involved, in which case a separate count may be~~
14 ~~charged for each victim.~~

15 ~~(4) Continuous sexual assault of a minor under the age of~~
16 ~~fourteen years is a class A felony."]~~

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.

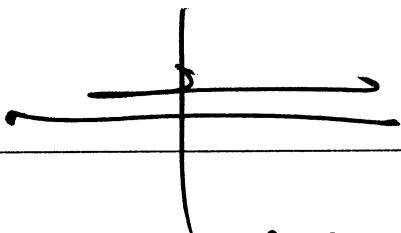
20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon the approval of
 2 an amendment to article I of the Constitution of the State of
 3 Hawaii, in accordance with article XVII, section 3, of the
 4 Constitution of the State of Hawaii, that allows the legislature
 5 to define what behavior constitutes a continuing course of
 6 conduct in sexual assault cases.

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SB2153

Report Title:

Crimes; Sexual Assault of a Minor

Description:

Amends the law defining continuous sexual assault of a minor to require that the jury unanimously agrees that the requisite number of acts that constitute the offense have occurred, even if they cannot agree on which acts constitute the requisite number.

