
A BILL FOR AN ACT

RELATING TO OFFENSES OF SEXUAL ASSAULT.

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

1 SECTION 1. Section 707-700, Hawaii Revised Statutes, is
2 amended by amending the definition of "compulsion" to read as
3 follows:

4 "Compulsion" means [absence]:

5 (1) The absence of consent~~[7]~~; or [a]

6 (2) The use of or attempt to use one or more of the
7 following to overcome a person:

8 (A) A threat, express or implied, that places a
9 person in fear of ~~[public]~~:

10 (i) Bodily injury to the individual or another
11 person, or in fear that the person or
12 another person will be kidnapped; or

13 (ii) Public humiliation, property damage, or
14 financial loss~~[7]~~;

15 (B) A dangerous instrument; or

16 (C) Physical force."

17 SECTION 2. Section 707-730, Hawaii Revised Statutes, is
18 amended by amending subsection (1) to read as follows:



1 "(1) A person commits the offense of sexual assault in the
2 first degree if:

3 (a) The person knowingly subjects another person to an act
4 of sexual penetration by [streng] compulsion;

5 (b) The person knowingly engages in sexual penetration
6 with another person who is less than fourteen years
7 old;

8 (c) The person knowingly engages in sexual penetration
9 with a person who is at least fourteen years old but
10 less than sixteen years old; provided that:

11 (i) The person is not less than five years older than
12 the minor; and

13 (ii) The person is not legally married to the minor;

14 (d) The person knowingly subjects to sexual penetration
15 another person who is mentally defective; or

16 (e) The person knowingly subjects to sexual penetration
17 another person who is mentally incapacitated or
18 physically helpless as a result of the influence of a
19 substance that the actor knowingly caused to be
20 administered to the other person without the other
21 person's consent.



1 Paragraphs (b) and (c) shall not be construed to prohibit
2 practitioners licensed under chapter 453 or 455 from performing
3 any act within their respective practices."

4 SECTION 3. Section 707-731, Hawaii Revised Statutes, is
5 amended by amending subsection (1) to read as follows:

6 "(1) A person commits the offense of sexual assault in the
7 second degree if:

8 (a) The person [~~knowingly~~] recklessly subjects another
9 person to an act of sexual penetration by compulsion;

10 (b) The person knowingly subjects to sexual penetration
11 another person who is mentally incapacitated or
12 physically helpless; or

13 (c) The person, while employed:

14 (i) In a state correctional facility;

15 (ii) By a private company providing services at a
16 correctional facility;

17 (iii) By a private company providing community-based
18 residential services to persons committed to the
19 director of public safety and having received
20 notice of this statute;

21 (iv) By a private correctional facility operating in
22 the State of Hawaii; or



1 (v) As a law enforcement officer as defined in
2 section 710-1000(13),
3 knowingly subjects to sexual penetration an imprisoned
4 person, a person confined to a detention facility, a
5 person committed to the director of public safety, a
6 person residing in a private correctional facility
7 operating in the State of Hawaii, or a person in
8 custody; provided that paragraph (b) and this
9 paragraph shall not be construed to prohibit
10 practitioners licensed under chapter 453 or 455 from
11 performing any act within their respective practices;
12 and further provided that this paragraph shall not be
13 construed to prohibit a law enforcement officer from
14 performing a lawful search pursuant to a warrant or
15 exception to the warrant clause."

16 SECTION 4. Section 707-732, Hawaii Revised Statutes, is
17 amended by amending subsection (1) to read as follows:

18 "(1) A person commits the offense of sexual assault in the
19 third degree if:

20 (a) The person [~~recklessly~~] negligently subjects another
21 person to an act of sexual penetration by compulsion;



- 1 (b) The person knowingly subjects to sexual contact
2 another person who is less than fourteen years old or
3 causes such a person to have sexual contact with the
4 person;
- 5 (c) The person knowingly engages in sexual contact with a
6 person who is at least fourteen years old but less
7 than sixteen years old or causes the minor to have
8 sexual contact with the person; provided that:
- 9 (i) The person is not less than five years older than
10 the minor; and
- 11 (ii) The person is not legally married to the minor;
- 12 (d) The person knowingly subjects to sexual contact
13 another person who is mentally defective, mentally
14 incapacitated, or physically helpless, or causes such
15 a person to have sexual contact with the actor;
- 16 (e) The person, while employed:
- 17 (i) In a state correctional facility;
- 18 (ii) By a private company providing services at a
19 correctional facility;
- 20 (iii) By a private company providing community-based
21 residential services to persons committed to the



1 director of public safety and having received
2 notice of this statute;

3 (iv) By a private correctional facility operating in
4 the State of Hawaii; or

5 (v) As a law enforcement officer as defined in
6 section 710-1000(13),

7 knowingly subjects to sexual contact an imprisoned
8 person, a person confined to a detention facility, a
9 person committed to the director of public safety, a
10 person residing in a private correctional facility
11 operating in the State of Hawaii, or a person in
12 custody, or causes the person to have sexual contact
13 with the actor; or

14 (f) The person knowingly, by [~~strong~~] compulsion, has
15 sexual contact with another person or causes another
16 person to have sexual contact with the actor.

17 Paragraphs (b), (c), (d), and (e) shall not be construed to
18 prohibit practitioners licensed under chapter 453 or 455 from
19 performing any act within their respective practices; provided
20 further that paragraph (e)(v) shall not be construed to prohibit
21 a law enforcement officer from performing a lawful search
22 pursuant to a warrant or an exception to the warrant clause."

1 SECTION 5. Section 707-700, Hawaii Revised Statutes, is
2 amended by deleting the definition of "strong compulsion".

3 [~~"Strong compulsion" means the use of or attempt to use~~
4 ~~one or more of the following to overcome a person:~~

5 ~~(1) A threat, express or implied, that places a person in~~
6 ~~fear of bodily injury to the individual or another~~
7 ~~person, or in fear that the person or another person~~
8 ~~will be kidnapped;~~

9 ~~(2) A dangerous instrument; or~~

10 ~~(3) Physical force."]~~

11 SECTION 6. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.

17

INTRODUCED BY:

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H.B. NO. 1857

Report Title:

Sexual Assault; Sexual Penetration or Contact by Compulsion;
Elements

Description:

Amends the elements required to establish: (1) sexual assault in the first, second, and third degrees with regard to subjecting another person to sexual penetration by compulsion, and (2) sexual assault in the third degree with regard to sexual contact by compulsion.

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