

JAN 23 2015

A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULTS.

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

1 SECTION 1. Section 707-730, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **§707-730 Sexual assault in the first degree.** (1) A
4 person commits the offense of sexual assault in the first degree
5 if:

6 (a) The person knowingly subjects another person to an act
7 of sexual penetration by strong compulsion;

8 (b) The person knowingly engages in sexual penetration
9 with another person who is less than fourteen years
10 old;

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

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

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

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



1 (e) The person knowingly subjects to sexual penetration
 2 another person who is mentally incapacitated or
 3 physically helpless as a result of the influence of a
 4 substance that the actor knowingly caused to be
 5 administered to the other person without the other
 6 person's consent.

7 Paragraphs (b) and (c) shall not be construed to prohibit
 8 practitioners licensed under chapter 453, ~~[æ]~~ 455, 457, or 461J
 9 from performing any authorized or valid procedure ~~[æ]~~ within
 10 the scope of their respective licensed practice practices.

11 (2) Sexual assault in the first degree is a class A
 12 felony.

13 SECTION 2. Section 707-730, Hawaii Revised Statutes, is amended
 14 to read as follows:

15 **§707-731 Sexual assault in the second degree.** (1) A person
 16 commits the offense of sexual assault in the second degree if:

17 (a) The person knowingly subjects another person to an act
 18 of sexual penetration by compulsion;

19 (b) The person knowingly subjects to sexual penetration
 20 another person who is mentally incapacitated or
 21 physically helpless; or

22 (c) The person, while employed:



- 1 (i) In a state correctional facility;
- 2 (ii) By a private company providing services at a
3 correctional facility;
- 4 (iii) By a private company providing community-based
5 residential services to persons committed to the
6 director of public safety and having received
7 notice of this statute;
- 8 (iv) By a private correctional facility operating in
9 the State of Hawaii; or
- 10 (v) As a law enforcement officer as defined in
11 section 710-1000(13),
12 knowingly subjects to sexual penetration an imprisoned
13 person, a person confined to a detention facility, a person
14 committed to the director of public safety, a person residing in
15 a private correctional facility operating in the State of
16 Hawaii, or a person in custody; provided that paragraph (b)
17 shall not be construed to prohibit practitioners licensed under
18 chapter 453, ~~or 455, 457, or 461J~~ from performing any authorized
19 or valid procedure [~~act~~] within the scope of their respective
20 licensed practice [~~practices~~]; and further provided that this
21 paragraph shall not be construed to prohibit a law enforcement



1 officer from performing a lawful search pursuant to a warrant or
2 exception to the warrant clause.

3 (2) Sexual assault in the second degree is a class B
4 felony.

5 SECTION 3. Section 707-730, Hawaii Revised Statutes, is amended
6 to read as follows:

7 **§707-732 Sexual assault in the third degree.** (1) A person
8 commits the offense of sexual assault in the third degree if:

9 (a) The person recklessly subjects another person to an
10 act of sexual penetration by compulsion;

11 (b) The person knowingly subjects to sexual contact
12 another person who is less than fourteen years old or
13 causes such a person to have sexual contact with the
14 person;

15 (c) The person knowingly engages in sexual contact with a
16 person who is at least fourteen years old but less
17 than sixteen years old or causes the minor to have
18 sexual contact with the person; provided that:

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

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



- 1 (d) The person knowingly subjects to sexual contact
- 2 another person who is mentally defective, mentally
- 3 incapacitated, or physically helpless, or causes such
- 4 a person to have sexual contact with the actor;
- 5 (e) The person, while employed:
 - 6 (i) In a state correctional facility;
 - 7 (ii) By a private company providing services at a
 - 8 correctional facility;
 - 9 (iii) By a private company providing community-based
 - 10 residential services to persons committed to the
 - 11 director of public safety and having received
 - 12 notice of this statute;
 - 13 (iv) By a private correctional facility operating in
 - 14 the State of Hawaii; or
 - 15 (v) As a law enforcement officer as defined in
 - 16 section 710-1000(13),
 - 17 knowingly subjects to sexual contact an imprisoned
 - 18 person, a person confined to a detention facility, a
 - 19 person committed to the director of public safety, a
 - 20 person residing in a private correctional facility
 - 21 operating in the State of Hawaii, or a person in



1 custody, or causes the person to have sexual contact
2 with the actor; or

3 (f) The person knowingly, by strong compulsion, has sexual
4 contact with another person or causes another person
5 to have sexual contact with the actor.

6 Paragraphs (b), (c), (d), and (e) shall not be construed to
7 prohibit practitioners licensed under chapter 453, ~~[or]~~ 455,
8 457, or 461J from performing any authorized or valid procedure
9 ~~act~~ within the scope of their respective licensed practice
10 ~~practices~~; provided further that paragraph (e)(v) shall not be
11 construed to prohibit a law enforcement officer from performing
12 a lawful search pursuant to a warrant or an exception to the
13 warrant clause.

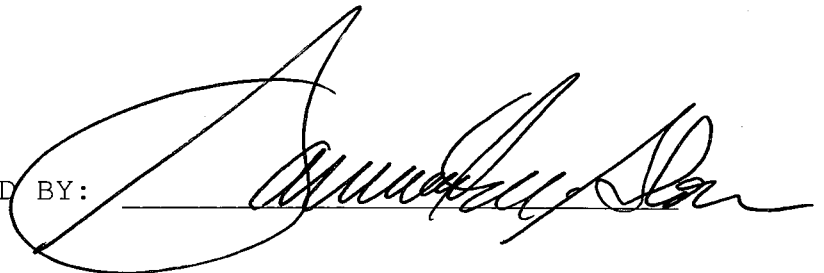
14 (2) Sexual assault in the third degree is a class C
15 felony.

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



S.B. NO. 933

Report Title:

Sexual assault; Practitioners; Limited immunity

Description:

Limits acts of penetration to any authorized or valid medical procedures by licensed practitioners within the scope of their licensed practice. Includes medical and osteopathic physicians and surgeons, naturopaths, physical therapists, assistants, nurses and midwives as licensed practitioners.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

