

JAN 17 2020

A BILL FOR AN ACT

RELATING TO THE SEXUAL ASSAULT OF AN ANIMAL.

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

1 SECTION 1. The legislature finds that the sexual assault
2 of an animal, or bestiality, is prohibited in forty-six states.
3 While Hawaii has strong animal cruelty laws, the sexual
4 molestation of animals by humans is not adequately addressed.
5 Animal cruelty laws require proof of specific actions, such as
6 torture, actions that inflict bodily injury to the animal, or
7 actions that cause the animal's death. Some sexual assaults of
8 animals cannot be prosecuted under animal cruelty laws because
9 they do not cause bodily injury. Additionally, many acts of
10 animal sexual abuse are discovered long after the incident
11 occurs, limiting the available evidence.

12 The legislature further finds that the sexual assault of an
13 animal can be a strong predictor of a tendency to commit other
14 violent and sexual crimes. A study of more than forty-four
15 thousand adult male sex offenders concluded that the sexual
16 assault of an animal is the strongest predictor of the sexual
17 assault of a child. Some studies have also drawn connections



1 between the sexual assault of animals and serial homicide. For
2 this reason, the Federal Bureau of Investigation tracks
3 bestiality and other forms of animal cruelty as group A offenses
4 in the national incident-based reporting system--the same
5 category used to track rape and murder.

6 The legislature finds that establishing the sexual assault
7 of an animal as a separate crime will allow state law
8 enforcement officers to better identify potentially dangerous
9 and violent sexual predators in their communities.

10 Accordingly, the purpose of this Act is to prohibit the
11 sexual assault of an animal in the State.

12 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§711- Sexual assault of an animal. (1) A person
16 commits the offense of sexual assault of an animal if the person
17 knowingly:

18 (a) Subjects an animal to sexual contact;

19 (b) Possesses, sells, transfers, purchases, or otherwise
20 obtains an animal with the intent to subject the
21 animal to sexual contact;



1 (c) Organizes, promotes, conducts, or participates as an
2 observer in an act where an animal is subject to
3 sexual contact;

4 (d) Causes, coerces, aids, or abets another person to
5 subject an animal to sexual contact;

6 (e) Permits sexual contact with an animal to be conducted
7 on any premises under the person's charge or control;

8 (f) Advertises, solicits, offers, or accepts the offer of
9 an animal with the intent that it be subjected to
10 sexual contact in the State; or

11 (g) Subjects an animal to sexual contact in the presence
12 of a minor.

13 (2) This section shall not apply to the following
14 practices:

15 (a) Veterinary medicine;

16 (b) Artificial insemination of animals for the purpose of
17 procreation;

18 (c) Animal husbandry; or

19 (d) Conformation judging.

20 (3) Sexual assault of an animal is a class C felony;

21 provided that if the offense subjected a minor to sexual contact



1 with an animal or was committed in the presence of a minor as
2 defined in section 706-606.4, the offense is a class B felony.

3 (4) Each violation of this section shall constitute a
4 separate offense.

5 (5) Upon conviction, guilty plea, or plea of nolo
6 contendere for any violation of this section, the defendant
7 shall be:

8 (a) Ordered to:

9 (i) Surrender or forfeit the animal whose sexual
10 assault was the basis of the conviction or plea
11 to the custody of the animal service contractor
12 in the county where the offense took place for
13 the time and under the conditions ordered by the
14 court;

15 (ii) Surrender or forfeit any other animals in the
16 defendant's possession, custody, or control to
17 the animal service contractor in the county where
18 the offense took place for the time and under the
19 conditions ordered by the court; provided that
20 there is substantial evidence that the animals
21 are being abused in violation of this section;



1 at any establishment where animals are present,
2 for the length of time that the court deems
3 reasonable for the protection of all animals but
4 not less than five years after the person's
5 release from imprisonment or court supervision.

6 (6) Prosecution under this section does not preclude
7 prosecution under any other law. Nothing in this section is
8 intended to affect any civil remedies available for a violation
9 of this section.

10 (7) As used in this section, "sexual contact" means:

11 (a) Any act between a person and an animal involving
12 contact between the sex organs or anus of one and the
13 mouth, anus, or sex organs of the other;

14 (b) Any touching or fondling by a person of the sex organs
15 or anus of an animal;

16 (c) Any transfer or transmission of semen by the person
17 upon any part of the animal; or

18 (d) Any insertion, however slight, of any part of a
19 person's body, or any object manipulated by the
20 person, into the vaginal or anal opening of an animal,



1 or the insertion of any part of the animal's body into
2 the vaginal or anal opening of the person.

3 (8) Violations of this section, including the sexual
4 assault of any type of animal, shall be subject to the search,
5 impound, and forfeiture provisions in section 711-1109.1 and
6 711-1109.2."

7 SECTION 3. Section 706-606.4 is amended by amending
8 subsection (2) to read as follows:

9 "(2) As used in this section:

10 "In the presence of a minor" means in the actual physical
11 presence of a child or knowing that a child is present and may
12 hear or see the offense.

13 "Offense" means a violation of section 707-710 (assault in
14 the first degree), 707-711 (assault in the second degree),
15 707-730 (sexual assault in the first degree), 707-731 (sexual
16 assault in the second degree), 707-732 (sexual assault in the
17 third degree), [~~or~~] 709-906 (abuse of family or household
18 members) [~~or~~], or 711- (sexual assault of an animal)."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



S.B. NO. 2718

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

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S.B. NO. 2718

Report Title:

Penal Code; Sexual Assault of an Animal; Prohibition

Description:

Amends the Penal Code to establish the crime of sexual assault of an animal. Provides that the sexual assault of an animal is a class C felony or a class B felony if the offense subjects a minor to sexual contact with an animal or is committed in the presence of a minor.

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