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# A BILL FOR AN ACT

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RELATING TO SEXUAL ASSAULT OF A MINOR.

**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 part V to be appropriately  
3 designated and to read as follows:

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

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

12       (b) While the minor is under the age of sixteen years,  
13       engages in two or more acts of sexual penetration or  
14       sexual contact with the minor over a period of time;  
15       provided that if the minor is at least fourteen years  
16       old but less than sixteen years old, the person is:

17       (i) Five or more years older than the minor; and



1           (ii) Not legally married to the minor.

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

6           (3) No other felony sex offense involving the same victim  
7 may be charged in the same proceeding with a charge under this  
8 section, unless the other charged offense occurred outside the  
9 period of the offense charged under this section, or the other  
10 offense is charged in the alternative. A defendant may be  
11 charged with only one count under this section, unless:

12           (a) More than one victim is involved, in which case a  
13 separate count may be charged for each victim; or

14           (b) The charges involve separate and distinct time periods  
15 having distinguishable circumstances.

16           (4) Continuous sexual assault of a minor under the age of  
17 sixteen years in the second degree is a class B felony."

18           SECTION 2. Section 707-733.6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "~~+~~\$707-733.6~~+~~ Continuous sexual assault of a minor  
21 under the age of ~~[fourteen]~~ sixteen years~~-~~ in the first



1 degree. (1) A person commits the offense of continuous sexual  
2 assault of a minor under the age of [~~fourteen~~] sixteen years in  
3 the first degree if the person:

4 (a) Either resides in the same home with a minor under the  
5 age of [~~fourteen~~] sixteen years or has recurring  
6 access to the minor; and

7 (b) [~~Engages~~] While the minor is under the age of sixteen  
8 years, engages in three or more acts of sexual  
9 penetration or sexual contact with the minor over a  
10 period of time[, while the minor is under the age of  
11 fourteen years.]; provided that if the minor is at  
12 least fourteen years old but less than sixteen years  
13 old, the person is:

14 (i) Five or more years older than the minor; and

15 (ii) Not legally married to the minor.

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

20 (3) No other felony sex offense involving the same victim  
21 may be charged in the same proceeding with a charge under this



1 section, unless the other charged offense occurred outside the  
2 period of the offense charged under this section, or the other  
3 offense is charged in the alternative. A defendant may be  
4 charged with only one count under this section, unless ~~[more]~~:

5 (a) More than one victim is involved, in which case a  
6 separate count may be charged for each victim[-]; or

7 (b) The charges involve separate and distinct time periods  
8 having distinguishable circumstances.

9 (4) Continuous sexual assault of a minor under the age of  
10 ~~[fourteen]~~ sixteen years in the first degree is a class A  
11 felony."

12 SECTION 3. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date, and does not affect any  
15 proceedings begun or applications received by the paroling  
16 authority before its effective date.

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2060, and  
20 upon ratification of a constitutional amendment allowing the  
21 legislature, in cases involving crimes against minors, to define



- 1 what behavior constitutes a continuing course of conduct, and
- 2 what constitutes the jury unanimity that is required for a
- 3 conviction.
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**Report Title:**

Honolulu Prosecuting Attorney's Office Package; Criminal  
Offenses; Sexual Assault; Minors

**Description:**

Establishes the class B felony offense of continuous sexual assault of a minor under the age of sixteen years in the second degree. Amends the offense of continuous sexual assault of a minor under the age of fourteen years to apply to minors under the age of sixteen years and to specify that the offense is in the first degree. Effective upon ratification of constitutional amendment. Effective 7/1/2060. (HD1)

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

