

JAN 19 2022

A BILL FOR AN ACT

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. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the




1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval
6 and upon ratification of a constitutional amendment allowing the
7 legislature, in cases involving crimes against minors, to define
8 what behavior constitutes a continuing course of conduct, and
9 what constitutes the jury unanimity that is required for a
10 conviction.

11

INTRODUCED BY:



By Request



S.B. NO. 2085

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 16 years in the second degree. Amends the offense of continuous sexual assault of a minor under the age of 14 years to apply to minors under the age of 16 years, and to specify that the offense is in the first degree. Effective upon ratification of constitutional amendment.

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

