
A BILL FOR AN ACT

RELATING TO TORTURE.

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

SECTION 1. The legislature finds that many forms of cruel and degrading sadism are inadequately addressed by the current criminal law. Some acts occur during aggravated kidnappings or following repeated assaults. Other acts, such as starvation or electrocution, may inflict immense suffering without technically causing bodily injury. The common denominator for torture is the pervasive physical and psychological control exercised over the victim by the abuser.

Accordingly, the purpose of this Act is to prohibit torture in the State.

SECTION 2. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§707- Torture. (1) Any person who:

(a) Knowingly causes serious bodily injury to another person within the actor's custody or physical control;



1 (b) Knowingly causes serious bodily injury or substantial
2 bodily injury to another person, and the actor has
3 previously engaged in a pattern or practice of
4 physically abusing the other person; or

5 (c) Knowingly subjects a minor or vulnerable person to any
6 of the following acts, or to any substantially similar
7 act, on three or more occasions within a period of two
8 years:

9 (i) Strangling the minor or vulnerable person;

10 (ii) Biting, branding, burning, cutting, or
11 electrocuting the minor or vulnerable person;

12 (iii) Suspending the minor or vulnerable person by the
13 wrists, ankles, arms, legs, hair, or other part
14 of the body;

15 (iv) Restricting basic and necessary bodily functions
16 required for the personal hygiene of the minor or
17 vulnerable person;

18 (v) Forcing the minor or vulnerable person to remain
19 in an area unsuitable for human habitation, such
20 as areas where urine or feces are actively
21 present;



1 (vi) Forcing the minor or vulnerable person to ingest
2 mind-altering drugs that have not been prescribed
3 by a physician for the minor or vulnerable
4 person, non-potable water, urine, excrement, or
5 poison; or

6 (vii) Exposing the minor or vulnerable person to
7 extreme temperatures without adequate clothing;

8 is guilty of the offense of torture.

9 (2) Proof that the victim suffered pain is not an element
10 of a violation of subsection (1)(c) of this offense.

11 (3) For purposes of this section:

12 "Custody or physical control" means the forcible
13 restriction of a person's movements or the forcible confinement
14 of the person so as to interfere with that person's liberty,
15 without that person's consent or without lawful authority.

16 "Minor" means a person under the age of eighteen years.

17 "Pattern or practice" means two or more acts within a
18 period of two years with a common state of mind.

19 "Vulnerable person" means a family or household member as
20 defined in section 709-906, an incompetent person as defined in



1 section 709-905, or a handicapped person as defined in
2 section 706-662(5).

3 (4) Torture is a class A felony."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 4. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 5. New statutory material is underscored.

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

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Report Title:

Honolulu Prosecuting Attorney Package; Criminal Offenses; Penal Code; Torture; Prohibition

Description:

Defines and prohibits the offense of torture. Makes torture a class A felony. (SD1)

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