

**Session Laws of Hawaii
Passed By The
Twenty-First State Legislature
Second Special Session
2001**

ACT 1

H.B. NO. 236

A Bill for an Act Relating to Sexual Assault.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 707-730, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the first degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;
- (b) The person knowingly ~~[subjects to]~~ engages in sexual penetration with another person who is less than fourteen years old; or
- (c) The person knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old; provided that:

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

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

~~[provided this paragraph]~~ Paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453, 455, or 460, from performing any act within their respective practices.”

SECTION 2. Section 707-732, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the third degree if:

- (a) The person recklessly subjects another person to an act of sexual penetration by compulsion;
- (b) The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;
- (c) The person knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes the minor to have sexual contact with the person; provided that:

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

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

[~~(e)~~] (d) The person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor; [~~or~~]
 (~~d~~) (e) The person, while employed in a state correctional facility, knowingly subjects to sexual contact an imprisoned person or causes [~~such~~] the person to have sexual contact with the actor; or
 [~~(e)~~] (f) The person knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor[;]
 provided that ~~paragraphs~~]. Paragraphs (b), (c), [~~and~~] (d), and (e) shall not be construed to prohibit practitioners licensed under chapter 453, 455, or 460, from performing any act within their respective practices.”

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

SECTION 4. The prosecuting attorney of each county shall maintain a record of all cases received and prosecuted under sections 707-730(1) and 707-732(1), Hawaii Revised Statutes, between the effective date of this Act and November 30, 2002. The department of the prosecuting attorney of the city and county of Honolulu shall submit its statistics to the department of the attorney general no later than December 6, 2002, for the purposes of section 6 of this Act. A report from the prosecuting attorney of each county, containing a record of the above statistics, shall be submitted to the legislature no later than twenty days prior to the convening of the 2003 regular session.

SECTION 5. The attorney general shall convene a task force to engage in a comprehensive review of the effectiveness and impact of this Act, based partly on data provided by the department of the prosecuting attorney of the city and county of Honolulu. The attorney general shall request the Coalition for the Prevention of Sex Assault to assist in the development and work of the task force. In addition to its review of this Act, the task force shall also review differing viewpoints concerning the age of consent for consensual sex conduct, particularly as it relates to minors in sexual relationships with adult partners.

Findings should provide the legislature with factual information, the national experience, and “best practices” for the purpose of assisting the legislature in developing social policy on the issue of “age of consent”, which shall specifically include but is not limited to:

- (1) A compilation of relevant state statutes;
- (2) A compilation of sentencing practices in other jurisdictions;
- (3) An evaluation of statutes and sentencing practices and their impacts on adolescents; and
- (4) Hawaii data on incidents of adolescent sexual activity.

The composition of the task force shall be as follows, but not limited to:

- (1) Each county chief of police, or designate;
- (2) Each county prosecutor, or designate;
- (3) A representative from the judiciary;
- (4) A department of public safety representative;
- (5) A department of health representative;
- (6) A Sex Abuse Treatment Center representative;
- (7) A Sex Assault Coalition representative;
- (8) A Catholic Charities-Child Sex Abuse Treatment Program representative;

- (9) A Children's Advocacy Center representative;
- (10) An office of youth services representative;
- (11) An immigrant service provider representative;
- (12) The chair of the house committee on judiciary and Hawaiian affairs, or designate;
- (13) The chair of the senate committee on judiciary, or designate;
- (14) A Hawaii Family Forum representative;
- (15) A Sisters Offering Support representative;
- (16) A League of Women Voters representative;
- (17) A Hawaii state commission on the status of women representative; and
- (18) A military community representative.

The task force shall report its findings and recommendations to the legislature no later than twenty days before the convening of the regular session of 2003.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval and shall be repealed on June 30, 2003; provided that sections 707-730(1) and 707-732(1), Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act.

(Vetoed by Governor on June 18, 2001, and veto overridden by Legislature on July 10, 2001.)