GOV. MSG. NO. 1323

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 9, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 9, 2015, the following bill was signed into law:

SB387 SD2 HD3 CD1 RELATING TO AFFIRMATIVE CONSENT
ACT 222 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

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SENATE
OFFICE OF THE PRESIDENT

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RECEIVED
THE SENATE
CLERK'S OFFICE
STATE OF HAWAII

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Approved by the Governor
on JUL 9 2015

THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

ACT 222

S.B. NO. 387 S.D. 2 H.D. 3 C.D. 1

A BILL FOR AN ACT

RELATING TO AFFIRMATIVE CONSENT.

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

SECTION 1. The legislature finds that while Congress has enacted several historic and significant federal laws to address sex-based discrimination and violence against women and girls, including Title IX of the Education Amendments of 1972, renamed the Patsy Takemoto Mink Equal Opportunity in Education Act in 2002 in recognition of the late United States Representative Patsy Mink's tireless efforts regarding Title IX, and the more recent Violence Against Women Act, sexual violence is prevalent on college campuses. Nationally, one in five women is sexually assaulted while in college. Approximately one-third of these sexual assaults are perpetrated on women who are first-year students between the ages of seventeen and nineteen. Also, women aged sixteen to twenty-four are at the highest risk for experiencing abuse by an intimate partner.

The legislature concludes that violence against women is a continuing problem that must be addressed. Ending campus sexual violence is a combined endeavor of effective response and

1 intervention, awareness education to change attitudes and
2 behaviors, and clear policies that do not tolerate such conduct.
3 The legislature acknowledges that the University of Hawaii
4 is committed to maintaining and promoting safe, respectful
5 campus environments that are free from discrimination,
6 harassment, and sexual violence. The University of Hawaii board
7 of regents recently adopted an executive policy concerning
8 sexual harassment, sexual assault, domestic violence, dating
9 violence, and stalking that requires the various campuses to
10 implement comprehensive education and prevention programs,
11 information and assistance for individuals who report alleged
12 sexual harassment and sexual violence, prompt and equitable
13 complaint procedures, information for respondents and
14 complainants about their rights, and corrective action to
15 prevent and end incidents of harassment and sexual violence.
16 The policy also provides a comprehensive definition of
17 affirmative consent.
18 The purpose of this Act is to provide for a review of the
19 university's policy.
20 SECTION 2. (a) There is established the affirmative
21 consent task force to review and make recommendations on the

University of Hawaii's executive policy on sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

(b) The task force shall comprise:

(1) The president of the University of Hawaii, or the president's designee;

(2) The vice president for community colleges, or the vice president's designee;

(3) The chancellor of the University of Hawaii at Manoa, or the chancellor's designee;

(4) The chancellor of the University of Hawaii at Hilo, or the chancellor's designee;

(5) The chancellor of the University of Hawaii at West Oahu, or the chancellor's designee;

(6) The executive director of the Hawaii state commission on the status of women, or the executive director's designee;

(7) The chair of the University of Hawaii commission on the status of women, or the chair's designee;

(8) At least two students at the University of Hawaii to be chosen by the president of the University of Hawaii, or the president's designee;

(9) The executive director of the Sex Abuse Treatment Center, or the director's designee;

(10) A member of the American Civil Liberties Union;

(11) A member of the National Association of Social Workers;

(12) A representative of the Hawaii State Coalition Against Domestic Violence;

(13) A representative of the Honolulu police department; and

(14) A member of the women's legislative caucus of the legislature.

(c) The members of the task force shall elect a chairperson from among themselves.

(d) The task force shall consider the following concepts when reviewing and revising the University of Hawaii's current policy:

(1) Affirming the University of Hawaii's commitment to increasing resources and strengthening the

1 institutional infrastructure of all of its campuses to
2 more effectively address the issue of affirmative
3 consent;
4 (2) Considering best practices and current professional
5 standards in reviewing and revising the current
6 policy;
7 (3) Using contemporary corrective actions consistent with
8 academic environments, standard business practices,
9 and the laws of the State; and
10 (4) That the University of Hawaii's policy shall provide
11 guidance to each campus within the University of
12 Hawaii system on the following:
13 (A) Comprehensive education and prevention programs
14 that inform the University of Hawaii community
15 about the policies, resources, complaint options,
16 remedies, and the risks and myths that contribute
17 to sexual harassment, sexual assault, domestic
18 violence, dating violence, and stalking;
19 (B) Information and assistance for individuals who
20 report alleged sexual harassment and sexual
21 violence, including informing individuals about

1 their right to file criminal charges as well as
2 the availability of on- and off-campus resources
3 (e.g., medical, counseling, advocacy, legal, and
4 other support services, including confidential
5 options) and alternative remedies, such as
6 housing, academic, or workplace accommodations,
7 if appropriate and reasonably available,
8 regardless of whether the individual chooses to
9 file a complaint with or report a crime to campus
10 security or a local law enforcement agency;
11 (C) Prompt and equitable complaint procedures for
12 students and employees that are accessible and
13 widely publicized on a regular basis;
14 (D) Information for both respondents and complainants
15 regarding their rights during a student
16 disciplinary hearing or investigation, including
17 the right to a fair and impartial process, to be
18 accompanied by an advisor, to give their side of
19 the story and present all relevant evidence, to
20 receive simultaneous updates on the status of the
21 investigation and written notice of the outcome,

1 including relevant sanctions imposed on student
2 respondents, and to appeal;
3 (E) Provisions for corrective actions that the
4 campuses will implement or instill, including
5 remedies and disciplinary sanctions, to end
6 incidents of harassment or sexual violence and to
7 prevent their recurrence;
8 (F) Training on non-judgmental, victim-centered
9 communication for university staff who receive
10 and handle complaints of harassment or sexual
11 violence; and
12 (G) Procedures for the university's coordination and
13 cooperation with police and prosecutors if an
14 individual decides to report an incident of
15 harassment or sexual violence.
16 (e) The task force shall submit a report of its findings
17 and recommendations, including any proposed legislation, to the
18 legislature no later than twenty days prior to the convening of
19 the regular sessions of 2016 and 2017.
20 (f) The task force shall cease to exist on June 30, 2017.
21 SECTION 3. This Act shall take effect on July 1, 2015.

S.B. NO. 387 S.D. 2 H.D. 3 C.D. 1

APPROVED this 9 day of JUL, 2015

GOVERNOR OF THE STATE OF HAWAII