
A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT OF AN ANIMAL.

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

1 SECTION 1. The legislature finds that the sexual assault
2 of an animal, or bestiality, is prohibited in forty-six states.
3 While Hawaii has strong animal cruelty laws, the sexual
4 molestation of animals by humans is not adequately addressed.
5 Animal cruelty laws require proof of specific actions such as
6 torture, actions that inflict bodily injury to the animal, or
7 actions that cause the animal's death. Some sexual assaults of
8 animals cannot be prosecuted under animal cruelty laws because
9 they do not cause bodily injury. Additionally, many acts of
10 animal sexual abuse are discovered long after the incident
11 occurs, limiting the available evidence.

12 The legislature further finds that the sexual assault of an
13 animal has been significantly linked to the sexual abuse of
14 children, as well as interpersonal violence and other forms of
15 animal cruelty. In addition, sexual abusers of animals have
16 been shown to collect and share child pornography and express



1 interest in other aberrant behavior involving sexual violence
2 and fetish behaviors.

3 The legislature additionally finds that establishing the
4 sexual assault of an animal as a separate crime will allow state
5 law enforcement officers to better identify potentially
6 dangerous and violent sexual predators in their communities.

7 Accordingly, the purpose of this Act is to prohibit the
8 sexual assault of an animal in the State.

9 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§711- Sexual assault of an animal. (1) A person
13 commits the offense of sexual assault of an animal if the person
14 knowingly:

15 (a) Subjects an animal to sexual contact;

16 (b) Possesses, sells, transfers, purchases, or otherwise
17 obtains an animal with the intent to subject the
18 animal to sexual contact;

19 (c) Organizes, promotes, conducts, or participates as an
20 observer in an act where an animal is subject to
21 sexual contact;



- 1 (d) Causes, coerces, aids, or abets another person to
- 2 subject an animal to sexual contact;
- 3 (e) Permits sexual contact with an animal to be conducted
- 4 on any premises under the person's charge or control;
- 5 (f) Advertises, solicits, offers, or accepts the offer of
- 6 an animal with the intent that it be subjected to
- 7 sexual contact in the State; or
- 8 (g) Creates, distributes, publishes, or transmits, whether
- 9 for commercial or recreational purposes, a
- 10 pornographic image or material depicting a person
- 11 subjecting an animal to sexual contact.
- 12 (2) This section shall not apply to the following
- 13 practices:
- 14 (a) Veterinary medicine;
- 15 (b) Artificial insemination of animals for the purpose of
- 16 procreation;
- 17 (c) Animal husbandry;
- 18 (d) Conformation judging; or
- 19 (e) Customary care of an animal by its owner.
- 20 (3) Sexual assault of an animal is a class C felony;
- 21 provided that if the offense subjected a minor to sexual contact



1 with an animal or was committed in the presence of a minor as
2 defined in section 706-606.4, the offense is a class B felony.

3 (4) Each violation of this section shall constitute a
4 separate offense.

5 (5) Upon conviction, guilty plea, or plea of nolo
6 contendere for any violation of this section, in addition to any
7 other penalty, the defendant shall be:

8 (a) Ordered to:

9 (i) Surrender or forfeit the animal whose sexual
10 assault was the basis of the conviction or plea
11 to the custody of the animal service contractor
12 in the county where the offense took place for
13 the time and under the conditions ordered by the
14 court;

15 (ii) Surrender or forfeit any other animals in the
16 defendant's possession, custody, or control to
17 the animal service contractor in the county where
18 the offense took place for the time and under the
19 conditions ordered by the court; provided that
20 there is substantial evidence that the animals
21 are being abused in violation of this section;



- 1 (iii) Reimburse the animal service contractor in the
2 county where the offense took place for
3 reasonable costs incurred to care for, feed,
4 house, and medically treat any animal sexually
5 assaulted under this section;
- 6 (iv) Attend an appropriate treatment program or obtain
7 psychiatric or psychological counseling, at the
8 defendant's expense; and
- 9 (v) Make restitution to the owner of the animal,
10 including reimbursement for any expenses incurred
11 for medical treatment or rehabilitation; provided
12 that the defendant is not the owner of the animal
13 whose sexual assault was the basis of the
14 conviction or plea; and
- 15 (b) Prohibited from:
- 16 (i) Harboring, owning, possessing or exercising
17 control over any animal;
- 18 (ii) Residing in any household where animals are
19 present; and
- 20 (iii) Engaging in any occupation, whether paid or
21 unpaid, or participating in a volunteer position



1 at any establishment where animals are present,
2 for the length of time that the court deems
3 reasonable for the protection of all animals but
4 not less than five years after the person's
5 release from imprisonment or court supervision.

6 (6) Prosecution under this section does not preclude
7 prosecution under any other law. Nothing in this section is
8 intended to affect any civil remedies available for a violation
9 of this section.

10 (7) As used in this section:

11 "Animal" includes every living or dead creature, except a
12 human being.

13 "Pornographic" has the same meaning as defined in section
14 712-1210.

15 "Sexual contact" means:

16 (a) The intentional touching or penetration, however
17 slight, of the sex organs, genitalia, mouth, or anus
18 of an animal by a person or of a person by an animal;

19 or



1 (b) The insertion of a person's body part or object into
2 the sex organs, genitalia, mouth, or anus of an
3 animal.

4 (8) Violations of this section shall be subject to the
5 search, impound, and forfeiture provisions in section 711-1109.1
6 and 711-1109.2."

7 SECTION 3. Section 706-606.4, Hawaii Revised Statutes, is
8 amended by amending subsection (2) to read as follows:

9 "(2) As used in this section:

10 "In the presence of a minor" means in the actual physical
11 presence of a child or knowing that a child is present and may
12 hear or see the offense.

13 "Offense" means a violation of section 707-710 (assault in
14 the first degree), 707-711 (assault in the second degree), 707-
15 730 (sexual assault in the first degree), 707-731 (sexual
16 assault in the second degree), 707-732 (sexual assault in the
17 third degree), [~~or~~] 709-906 (abuse of family or household
18 members) [~~or~~], or 711- (sexual assault of an animal)."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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



Report Title:

Penal Code; Sexual Assault of an Animal; Prohibition

Description:

Establishes the crime of sexual assault of an animal. Provides that the sexual assault of an animal is a class C felony or a class B felony if the offense subjects a minor to sexual contact with an animal or is committed in the presence of a minor.
(SD1)

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