

JAN 19 2022

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I, SECTION 25, OF THE HAWAII
CONSTITUTION REGARDING CRIMES AGAINST MINORS.

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

1 SECTION 1. The purpose of this Act is to propose an
2 amendment to article I, section 25, of the Constitution of the
3 State of Hawaii to provide that the legislature may define what
4 behavior constitutes a continuing course of conduct in
5 continuous sexual assault crimes against minors younger than
6 sixteen years of age; what behavior constitutes a continuing
7 course of conduct in continuous abuse of a minor younger than
8 sixteen years of age; and what constitutes the jury unanimity
9 that is required for a conviction under these two charges.

10 In 2006, Hawaii voters authorized the legislature to define
11 what behavior constitutes a continuing course of conduct in
12 continuous sexual assault crimes against minors younger than
13 fourteen years of age. This authority was needed to address the
14 difficulty in prosecuting those persons who repeatedly sexually
15 assault a child, given the difficulty that children have in
16 remembering the individual dates on which they were sexually



1 assaulted. The amendment proposed by this Act would allow the
2 legislature to enact a law that would permit juries to convict a
3 person of the continuous abuse of a minor younger than sixteen
4 years of age, if each member of the jury were convinced beyond a
5 reasonable doubt that the defendant had abused the child the
6 required number of times, such as three, even if there was not
7 unanimity as to which individual incidents constitute the
8 requisite number. This change in the law would make it easier
9 to prosecute those persons who repeatedly abuse a child.

10 In 1997, the legislature passed a law to prohibit
11 continuous sexual assault of a minor under the age of fourteen
12 years, but that law was invalidated by the Hawaii supreme court.
13 A constitutional amendment similar to this proposed amendment
14 was passed by voters in 2004 but was invalidated by the Hawaii
15 supreme court; the present version of article I, section 25, of
16 the Constitution of the State of Hawaii was passed by voters in
17 2006. The amendment proposed by this Act would allow the
18 legislature to expand the offense to include continuous sexual
19 assault of a minor under the age of sixteen years, from the
20 existing statutory age of fourteen years. This change would be
21 consistent with the age at which minors may legally consent to



1 sexual conduct, with the provision that it is not an offense if
2 the minor is at least fourteen years old but less than sixteen
3 years old, and the other person is less than five years older
4 than the minor or legally married to the minor.

5 SECTION 2. Article I, section 25, of the Constitution of
6 the State of Hawaii is amended to read as follows:

7 " ~~[SEXUAL ASSAULT]~~ **CRIMES AGAINST MINORS**

8 **Section [4]25[4].** In continuous abuse crimes against
9 minors younger than sixteen years of age or continuous sexual
10 assault crimes against minors younger than [fourteen] sixteen
11 years of age, the legislature may define:

12 1. What behavior constitutes a continuing course of
13 conduct; and

14 2. What constitutes the jury unanimity that is required
15 for a conviction."

16 SECTION 3. The question to be printed on the ballot shall
17 be as follows:

18 "Shall the Constitution of the State of Hawaii be
19 amended to provide that with regard to continuous
20 abuse of minors younger than sixteen years of age or




1 continuous sexual assault of minors younger than
2 sixteen years of age, the legislature may define:

3 (1) What behavior constitutes a continuing
4 course of conduct; and

5 (2) What constitutes the jury unanimity that is
6 required for a conviction?"

7 SECTION 4. Constitutional material to be repealed is
8 bracketed and stricken. New constitutional material is
9 underscored.

10 SECTION 5. This amendment shall take effect upon
11 compliance with article XVII, section 3, of the Constitution of
12 the State of Hawaii.

13
INTRODUCED BY: 
By Request



S.B. NO. 2089

Report Title:

Honolulu Prosecuting Attorney's Office Package; Sexual Assault Crimes; Abuse Crimes; Criminal Offenses; Constitutional Amendment

Description:

Proposes an amendment to Article I, section 25, of the Hawaii Constitution to provide that the Legislature may define: what behavior constitutes a continuing course of conduct in continuous sexual assault crimes against minors younger than 16 years of age; what behavior constitutes a continuing course of conduct in continuous abuse of a minor younger than 16 years of age; and what constitutes the jury unanimity that is required for a conviction under these 2 charges.

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

