
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 legislature finds that in 1997, the
2 legislature passed a law to prohibit continuous sexual assault
3 of a minor under the age of fourteen years, however that law was
4 invalidated by the Hawaii Supreme Court. A similar
5 constitutional amendment was passed by voters in 2004 but was
6 also invalidated by the Hawaii Supreme Court. The present
7 version of article I, section 25, of Hawaii State Constitution
8 was passed by voters in 2006, which authorized the legislature
9 to define what behavior constitutes a continuing course of
10 conduct in continuous sexual assault crimes against minors
11 younger than fourteen years of age. The present version of
12 article I, section 25, of the Hawaii State Constitution also
13 allows the legislature to define what behavior constitutes jury
14 unanimity for purposes of a conviction on this charge. This is
15 significant because, for example, all twelve jurors may agree
16 that three or more incidents of sexual assault were committed



1 against the same child victim and within the permissible age
2 range, but not all jurors agree about which three incidents they
3 would rely on for the conviction. This authority is needed to
4 address the difficulty in prosecuting those persons who
5 repeatedly sexually assault a child given the difficulty that
6 children have in remembering the individual dates on which they
7 were sexually assaulted.

8 The legislature further finds that the amendment proposed
9 by this Act would allow the legislature to expand the offense to
10 include continuous sexual assault of a minor under the age of
11 sixteen years, from the existing statutory age of fourteen
12 years. This change would be consistent with the age at which
13 minors may legally consent to sexual conduct, with the provision
14 that it is not an offense if the minor is at least fourteen
15 years old but less than sixteen years old, and the other person
16 is less than five years older than the minor or legally married
17 to the minor.

18 Accordingly, the purpose of this Act is to propose an
19 amendment to article I, section 25, of the Constitution of the
20 State of Hawaii to provide that the legislature may define what
21 behavior constitutes a continuing course of conduct in



1 continuous sexual assault crimes against minors younger than
2 sixteen years of age what constitutes the jury unanimity that is
3 required for a conviction under this charge.

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

6 "SEXUAL ASSAULT CRIMES AGAINST MINORS

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

- 10 1. What behavior constitutes a continuing course of
11 conduct; and
- 12 2. What constitutes the jury unanimity that is required
13 for a conviction."

14 SECTION 3. The question to be printed on the ballot shall
15 be as follows:

16 "Shall the Constitution of the State of Hawaii be
17 amended to provide that with regard to continuous
18 sexual assault of minors younger than sixteen years of
19 age, the legislature may define:

- 20 (1) What behavior constitutes a continuing
21 course of conduct; and



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

3 SECTION 4. Constitutional material to be repealed is
4 bracketed and stricken. New constitutional material is
5 underscored.

6 SECTION 5. This amendment shall take effect upon
7 compliance with article XVII, section 3, of the Constitution of
8 the State of Hawaii.



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 sixteen years of age and what constitutes the jury unanimity that is required under this charge. (SD1)

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

