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# A BILL FOR AN ACT

RELATING TO TORTURE.

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

1           SECTION 1. The legislature finds that many forms of cruel  
2 and degrading sadism are inadequately addressed under existing  
3 criminal law. Some acts occur during aggravated kidnappings or  
4 following repeated assaults. Other acts, such as starvation or  
5 electrocution, may inflict immense suffering without technically  
6 causing bodily injury. The common denominator for torture is  
7 the pervasive physical and psychological control exercised over  
8 the victim by the abuser.

9           Accordingly, the purpose of this Act is to establish the  
10 offense of torture as a class A felony in the State.

11           SECTION 2. Chapter 707, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14           "§707-       Torture. (1) Any person who knowingly:  
15           (a) Causes serious bodily injury to another person within  
16           the actor's custody or physical control;



- 1        (b) Causes serious bodily injury or substantial bodily
- 2                injury to another person, and the actor has previously
- 3                engaged in a pattern or practice of physically abusing
- 4                the other person; or
- 5        (c) Subjects a minor or vulnerable person to any of the
- 6                following acts, or to any substantially similar act,
- 7                on three or more occasions within a period of two
- 8                years:
- 9                (i) Strangling the minor or vulnerable person;
- 10               (ii) Biting, branding, burning, cutting, or
- 11               electrocuting the minor or vulnerable person;
- 12               (iii) Suspending the minor or vulnerable person by the
- 13               wrists, ankles, arms, legs, hair, or other part
- 14               of the body;
- 15               (iv) Depriving the minor or vulnerable person of
- 16               necessary food, water, or clothing;
- 17               (v) Restricting basic and necessary bodily functions
- 18               required for the personal hygiene of the minor or
- 19               vulnerable person;
- 20               (vi) Forcing the minor or vulnerable person to remain
- 21               in an area unsuitable for human habitation, such



1           as areas where urine or feces are actively  
2           present;  
3           (vii) Forcing the minor or vulnerable person to ingest  
4           mind-altering drugs that have not been prescribed  
5           by a physician for the minor or vulnerable  
6           person, non-potable water, urine, excrement, or  
7           poison; or  
8           (viii) Exposing the minor or vulnerable person to  
9           extreme temperatures without adequate clothing,  
10 shall be guilty of the offense of torture.

11           (2) Proof that the victim suffered pain is not an element  
12 of a violation of subsection (1)(c).

13           (3) For purposes of this section:  
14           "Custody or physical control" means the forcible  
15 restriction of a person's movements or the forcible confinement  
16 of the person so as to interfere with that person's liberty,  
17 without that person's consent or without lawful authority.

18           "Deprives" or "restricts" means to withhold in a manner  
19 that materially endangers the physical or mental health of a  
20 minor or vulnerable person.

21           "Minor" means a person under the age of eighteen years.

1       "Pattern or practice" means two or more acts within a  
2 period of two years with a common state of mind.

3       "Vulnerable person" means a family or household member as  
4 defined in section 709-906, an incompetent person as defined in  
5 section 709-905, or a person who has a status as described in  
6 section 706-662(5)(b)(ii).

7       (4) Torture is a class A felony.

8       (5) Where the conduct consists of depriving the minor or  
9 vulnerable person of necessary food, water, or clothing, it  
10 shall be a defense that the deprivation was caused solely by  
11 poverty, destitution, or lack of financial means."

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

15       SECTION 4. If any provision of this Act, or the  
16 application thereof to any person or circumstance, is held  
17 invalid, the invalidity does not affect other provisions or  
18 applications of the Act that can be given effect without the  
19 invalid provision or application, and to this end the provisions  
20 of this Act are severable.

21       SECTION 5. New statutory material is underscored.



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



S.B. NO. 281  
S.D. 1  
H.D. 2  
C.D. 1

**Report Title:**

Honolulu Prosecuting Attorney Package; Criminal Offenses; Penal Code; Torture; Prohibition

**Description:**

Defines and prohibits the offense of torture. Makes torture a class A felony. (CD1)

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