

ACT 223

S.B. NO. 2877-80

A Bill for an Act Relating to Sexual Offenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 707-700 Definitions of terms in this chapter.** In this chapter, unless a different meaning plainly is required:

(1) “Person” means a human being who has been born and is alive;

- (2) "Bodily injury" means physical pain, illness, or any impairment of physical condition;
- (3) "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ;
- (4) "Dangerous instrument" means any firearm, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury;
- (5) "Restrain" means to restrict a person's movement in such a manner as to interfere substantially with his liberty:
  - (a) By means of force, threat, or deception; or
  - (b) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of him;
- (6) "Relative" means parent, ancestor, brother, sister, uncle, aunt, or legal guardian;
- (7) "Sexual intercourse" means sexual intercourse in its ordinary meaning or any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person, but emission is not required.
- (8) "Deviate sexual intercourse" means any act of sexual gratification:
  - (a) Between persons not married to each other involving the sex organs of one and the mouth or anus of the other; or
  - (b) Between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.
- (9) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor, done with the intent of gratifying the sexual desire of either party;
- (10) "Married" includes persons legally married, and a male and female living together as man and wife regardless of their legal status, but does not include spouses living apart under a judicial decree;
- (11) "Forcible compulsion" means physical force that overcomes resistance; or a threat, expressed or implied, that places a person in fear of death or bodily injury to himself or another person, or in fear that he or another person will be kidnapped;
- (12) "Mentally defective" means a person suffering from a disease, disorder, or defect which renders him incapable of appraising the nature of his conduct;
- (13) "Mentally incapacitated" means a person rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a substance administered to him without his consent;
- (14) "Physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act."

SECTION 2. Section 707-740, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 707-740 Prompt complaint.** No prosecution may be instituted or main-

tained under this part unless the alleged offense was brought to the notice of public authority within three months of its occurrence; provided that where the alleged victim was a minor or otherwise incompetent to make a complaint, the three-month requirement shall not apply.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.