

ACT 60

H.B. NO. 2789

A Bill for an Act Relating to Sexual Assault.

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

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii to provide that the legislature may define what behavior constitutes a continuing course of conduct in sexual assault crimes and to amend the Hawaii penal code to statutorily define the behavior.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

“SEXUAL ASSAULT CRIMES

Section . The legislature may define what behavior constitutes a continuing course of conduct in sexual assault crimes.”

SECTION 3. The question to be printed on the ballot shall be as follows: “Shall the Constitution of the State of Hawaii be amended to provide that the legislature may define what behavior constitutes a continuing course of conduct in sexual assault crimes?”

SECTION 4. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§707- Continuous sexual assault of a minor under the age of fourteen years. (1) A person commits the offense of continuous sexual assault of a minor under the age of fourteen years if the person:

- (a) Either resides in the same home with a minor under the age of fourteen years or has recurring access to the minor; and
- (b) Engages in three or more acts of sexual penetration or sexual contact with the minor over a period of time, while the minor is under the age of fourteen years.

(2) To convict under this section, the trier of fact, if a jury, need unanimously agree only that the requisite number of acts have occurred; the jury need not agree on which acts constitute the requisite number.

(3) No other felony sex offense involving the same victim may be charged in the same proceeding with a charge under this section, unless the other charged offense occurred outside the time frame of the offense charged under this section or the other offense is charged in the alternative. A defendant may be charged with only one count under this section unless more than one victim is involved, in which case a separate count may be charge for each victim.

(4) Continuous sexual assault of a minor under the age of fourteen years is a class A felony.”

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SECTION 5. Section 707-733.5, Hawaii Revised Statutes, is repealed.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New constitutional and statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval; provided that the amendment proposed in section 2 to article I of the Constitution of the State of Hawaii shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii; and sections 4 and 5 shall take effect upon ratification of the constitutional amendment proposed in this Act.

(Approved May 10, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.