

A Bill for an Act Relating to Sexual Assault.

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

SECTION 1. Section 707-731, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the second degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by compulsion;
- (b) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless; ~~or~~
- (c) The person, while employed:
  - (i) In a state correctional facility;
  - (ii) By a private company providing services at a correctional facility;
  - (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
  - (iv) By a private correctional facility operating in the State of Hawaii; or
  - (v) As a law enforcement officer as defined in section ~~§~~710-1000~~§~~, knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State of Hawaii, or a person in custody; provided that paragraph (b) and this paragraph shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; and further provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause~~[-]; or~~
- (d) The person knowingly subjects to sexual penetration a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor; provided that:
  - (i) The person is not less than five years older than the minor; and
  - (ii) The person is not legally married to the minor.”

SECTION 2. Section 707-733, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the fourth degree if:

- (a) The person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion;
- (b) The person knowingly exposes the person’s genitals to another person under circumstances in which the actor’s conduct is likely to alarm the other person or put the other person in fear of bodily injury; ~~or~~
- (c) The person knowingly trespasses on property for the purpose of

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subjecting another person to surreptitious surveillance for the sexual gratification of the actor[-]; or

(d) The person knowingly engages in or causes sexual contact with a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor; provided that:

- (i) The person is not less than five years older than the minor; and
- (ii) The person is not legally married to the minor.”

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)