

ACT 147

S.B. NO. 281

A Bill for an Act Relating to Torture.

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

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

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

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

“§707- Torture. (1) Any person who knowingly:

- (a) Causes serious bodily injury to another person within the actor’s custody or physical control;
- (b) Causes serious bodily injury or substantial bodily injury to another person, and the actor has previously engaged in a pattern or practice of physically abusing the other person; or
- (c) Subjects a minor or vulnerable person to any of the following acts, or to any substantially similar act, on three or more occasions within a period of two years:
 - (i) Strangling the minor or vulnerable person;
 - (ii) Biting, branding, burning, cutting, or electrocuting the minor or vulnerable person;
 - (iii) Suspending the minor or vulnerable person by the wrists, ankles, arms, legs, hair, or other part of the body;
 - (iv) Depriving the minor or vulnerable person of necessary food, water, or clothing;
 - (v) Restricting basic and necessary bodily functions required for the personal hygiene of the minor or vulnerable person;
 - (vi) Forcing the minor or vulnerable person to remain in an area unsuitable for human habitation, such as areas where urine or feces are actively present;
 - (vii) Forcing the minor or vulnerable person to ingest mind-altering drugs that have not been prescribed by a physician for the minor or vulnerable person, non-potable water, urine, excrement, or poison; or
 - (viii) Exposing the minor or vulnerable person to extreme temperatures without adequate clothing,

shall be guilty of the offense of torture.

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

(3) For purposes of this section:

“Custody or physical control” means the forcible restriction of a person’s movements or the forcible confinement of the person so as to interfere with that person’s liberty, without that person’s consent or without lawful authority.

“Deprives” or “restricts” means to withhold in a manner that materially endangers the physical or mental health of a minor or vulnerable person.

“Minor” means a person under the age of eighteen years.

“Pattern or practice” means two or more acts within a period of two years with a common state of mind.

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

(4) Torture is a class A felony.

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

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

SECTION 5. New statutory material is underscored.¹

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

(Approved May 30, 2025.)

Note

1. Edited pursuant to HRS §23G-16.5.