
A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT.

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

1 SECTION 1. Chapter 304A, Hawaii Revised Statutes, is
2 amended by adding a new section to subpart A of part I to be
3 appropriately designated and to read as follows:

4 "§304A- Affirmative consent policy. (a) The board of
5 regents of the university shall adopt a sexual assault policy
6 for all students enrolled at the university that includes:

7 (1) An affirmative consent standard in the determination
8 of whether consent was given by parties to engage in
9 sexual conduct;

10 (2) A standard that affirmative consent must be ongoing
11 throughout sexual conduct and can be revoked at any
12 time;

13 (3) A policy that, in the evaluation of complaints, the
14 following circumstances shall not constitute
15 affirmative consent:



- 1 (A) Lack of protest, lack of resistance, or silence
- 2 on the part of the complainant;
- 3 (B) The existence of a dating relationship between
- 4 the complainant and the accused; or
- 5 (C) Prior sexual conduct of the complainant or the
- 6 accused;
- 7 (4) A policy that, in the evaluation of complaints, the
- 8 following circumstances shall preclude an assumption
- 9 of affirmative consent:
- 10 (A) The complainant was asleep or unconscious;
- 11 (B) The complainant was incapacitated due to the
- 12 influence of drugs, alcohol, or medication; or
- 13 (C) The complainant was affected by bodily injury;
- 14 (5) Procedures for confidential reporting of sexual
- 15 assault by victims and third parties;
- 16 (6) Appropriate privacy protections for complainants,
- 17 including confidentiality;
- 18 (7) Procedures for notifying a victim about the
- 19 availability of, and contact information for,
- 20 resources and services, including but not limited to



1 counseling, health, mental health, victim advocacy,
2 legal assistance, and rape crisis centers;

3 (8) A comprehensive training program for campus officials
4 involved in investigating and adjudicating sexual
5 assault, domestic violence, dating violence, and
6 stalking; and

7 (9) Sexual assault prevention and response training as
8 part of student orientation.

9 (b) As used in this section:

10 "Affirmative consent" means affirmative, unambiguous,
11 conscious, and voluntary agreement to engage in sexual conduct,
12 whereby it is the responsibility of each person involved in
13 sexual conduct to ensure that the person has the affirmative
14 consent of the other party or parties to engage in sexual
15 conduct, which shall be ongoing and may be revoked at any time.

16 "Sexual conduct" means acts of masturbation, homosexuality,
17 lesbianism, bestiality, sexual intercourse or physical contact
18 with a person's clothed or unclothed genitals, pubic area,
19 buttocks, or the breast or breasts of a female for the purpose
20 of sexual stimulation, gratification, or perversion."

21 SECTION 2. New statutory material is underscored.



H.B. NO. 597

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

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H.B. NO. 597

Report Title:

University of Hawaii; Affirmative Consent Policy

Description:

Requires the Board of Regents to adopt a sexual assault policy that includes an affirmative consent standard.

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