

## **Appendix A** **Hawai'i Criminal Definitions**

Hawai'i criminal definitions are included here as required by VAWA for information purposes. The definitions applicable to EP 1.204 are found on pp. 2-7 of the policy.

### A. Domestic Abuse (HRS § 586-1)

Under Hawai'i Revised Statutes Title 31, Chapter 586-1, "domestic abuse" includes physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members.

"Family or household member" means spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship.

"Dating relationship" means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context."

"Extreme psychological abuse" means: An intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

"Malicious property damage" means: An intentional or knowing damage to the property of another, without his/her consent, with intent to cause emotional distress.

### B. Sexual Assault (HRS § 707-730 to 733)

Hawai'i Revised Statutes Chapter 707 defines "Sexual Offenses" to include sexual assault and indecent exposure:

1. Sexual assault in the first degree (HRS § 707-730):
  - a. The person knowingly subjects another person to an act of sexual penetration by strong compulsion;
  - b. The person knowingly engages in sexual penetration with another person who is less than fourteen years old;

- c. The person knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old; provided that:
    - (1) The person is not less than five years older than the minor; and
    - (2) The person is not legally married to the minor;
  - d. The person knowingly subjects to sexual penetration another person who has an intellectual disability; or
  - e. The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.
2. Sexual assault in the second degree (HRS § 707-731)
- 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.
3. Sexual assault in the third degree (HRS § 707-732)
- a. The person recklessly subjects another person to an act of sexual penetration by compulsion;
  - b. The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;
  - c. The person knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes the minor to have sexual contact with the person; provided that:
    - (1) The person is not less than five years older than the minor; and
    - (2) The person is not legally married to the minor;
  - d. The person knowingly subjects to sexual contact another person who has an intellectual disability, or who is mentally incapacitated or physically helpless, or causes such a person to have sexual contact with the actor.

4. Sexual assault in the fourth degree (HRS § 707-733)

- 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 subjecting another person to surreptitious surveillance for the sexual gratification of the actor.

C. Sexual assault and use of computers HRS §708-893(b)

1. A person commits the offense of use of a computer in the commission of a separate crime if the person knowingly uses a computer to identify, select, solicit, persuade, coerce, entice, induce, or procure the victim or intended victim of the following offenses:
  - c. Section 707-731, relating to sexual assault in the second degree;
  - d. Section 707-732, relating to sexual assault in the third degree;
  - e. Section 707-733, relating to sexual assault in the fourth degree;
2. Use of a computer in the commission of a separate crime is an offense one class or grade, as the case may be, greater than the offense facilitated.

D. Stalking (HRS § 711-1106.5)

1. A person commits the offense of harassment by stalking if, with intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, that person engages in a course of conduct involving pursuit, surveillance, or nonconsensual contact upon the other person on more than one occasion without legitimate purpose.
2. For purposes of this section, "nonconsensual contact" means any contact that occurs without that individual's consent or in disregard of that person's express desire that the contact be avoided or discontinued. Nonconsensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or electronic mail transmission.
3. Harassment by stalking is a misdemeanor.