

State of Hawaii
Department of the Attorney General



**FOLLOW-UP REPORT OF THE
AGE OF CONSENT TASK FORCE**

*Pursuant to
Act 1, Second Special Session Laws of Hawaii 2001,
as Amended by Part I of Act 62,
Session Laws of Hawaii 2003*

*Submitted to
The Twenty-Second State Legislature
Regular Session of 2004*

TABLE OF CONTENTS

Background	1
Recommendation One	2
Recommendation Two	3
Recommendation Three	4
Recommendation Six	4
Attachment 1	
2002 Infant Deaths by Age of Mother and Age of Father	
Attachment 2	
Sex Abuse Treatment Center - Age of Consent Data	
Attachment 3	
Hawaii Children's Justice Centers (Calendar Year 2002)	
Attachment 4	
Hawaii Children's Justice Centers (Calendar Year 2003)	
Attachment 5	
Teen Intervention Program Age of Consent Data	

Age of Consent Task Force Recommendations Follow-Up Report

Background

In its Second Special Session held during 2001, the Legislature of the State of Hawaii enacted Act 1, which was introduced and passed by the Legislature as House Bill No. 236 (hereinafter “Act 1”). Act 1 amended the Hawaii Penal Code by raising the age of consent for sexual assault offenses, and included an age gap requirement between the actor and the minor. More specifically, Act 1 prohibited sexual conduct with minors between the ages of fourteen and sixteen years old if the sexual partner was at least five years older than the minor and not married to the minor. Prior to the act, a person of any age could legally engage in consensual sexual conduct with a child over the age of fourteen. The Legislature included a sunset provision in Act 1 that provided that the law would revert to its pre-Act 1 status on June 30, 2003.

Act 1 also provided that the Attorney General would convene a body, named the “Age of Consent Task Force,” which had the following objectives: to do a comprehensive review of the effectiveness and impact of the Act; to review the differing viewpoints concerning the age for consensual sex conduct; to provide information on how other jurisdictions had dealt with the age of consent issue; and to identify those approaches that best seemed to deal with the issue of age of consent. The Age of Consent Task Force was to report its findings and recommendations to the Legislature before the convening of the regular session of 2003.

As it was required, the Age of Consent Task Force provided a report of its findings and recommendations to the Legislature prior to the convening of the 2003 regular legislative session. The Age of Consent Task Force recommendations were as follows:

Recommendation One - Require the Department of Education and the Department of Health to add a question regarding age of one’s partner to their Youth Risk Behavior Survey.

Recommendation Two - Require that the Department of Health and the Department of Human Services track age of both parents in their review of infant mortality.

Recommendation Three - Require that the University of Hawaii include age of both parents in their Kids Count survey.

Recommendation Four - Legislature should appropriate funds to provide additional education regarding effects of adult sexual conduct with minors.

Recommendation Five - Service providers should be reminded of their statutory obligation to report illegal sexual conduct between adults and minors.

Recommendation Six - Service providers should collect data on the age of adult partners.

Recommendation Seven - The majority of the Task Force recommend removing the Act 1 sunset provision to make permanent the criminalization of sexual conduct with 14 and 15 year olds for partners who are more than five (5) years older. However, a substantial minority of the Task Force members prefer that the law be continued for at least one (1) year to enable the collecting of data (as recommended by the Task Force) to be initiated and fully implemented.

During the 2003 regular session, the Legislature by part I of Act 62, Session Laws of Hawaii 2003, adopted the recommendation of the Task Force that the criminalization of sexual activity with minors between the ages of fourteen and sixteen years old if the minor's sexual partner was at least five years older than the minor and not married to the minor be made permanent. However, of the remaining recommendations, the Legislature did not act on all of the remaining recommendations submitted by the Age of Consent Task Force, and no specific direction was given about which of the remaining recommendations of the Task Force were to be implemented, and how they were to be implemented. Nevertheless, the Attorney General was directed by the Legislature to collect and coordinate data from the Department of Education (DOE), Department of Health (DOH), University of Hawaii (UH), and service providers stemming from the recommendations of the Task Force, and to report those findings to the Legislature before the convening of the 2004 regular session. Thus, what is provided in this report is the data that could be collected by the DOE, DOH, UH, and service providers that relate to four of the seven recommendations made by the Task Force, or an explanation of what has been done by those agencies to try to begin collecting the information sought.

Recommendation One:

Require the Department of Education and the Department of Health to add a question to their Youth Risk Behavior Survey asking for the age of a minor's sexual partner, where applicable.

The Youth Risk Behavior Survey (YRBS) was developed by the Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), in collaboration with over 800 representatives from state and local health and education departments and other federal agencies, to monitor those health-risk behaviors that contribute to mortality, morbidity, and social problems among youth and adults in the United States. The survey is given to the middle and high school students every two years, during odd-numbered years.

There was no question in the 2003 YRBS surveys asking for the age of a minor's sexual partner. To add a question to the YRBS survey, the Adolescent Survey Committee, which is comprised of representatives of DOE, DOH, and UH, as well as CDC, must review the proposed question. The Department of Health has been informed of the recommendation of the Age of Consent Task Force to add a question concerning the age of sexual partners to its YRBS surveys and the Department will be attempting to add the question to the 2005 surveys.

Recommendation Two:

Require the Department of Health and the Department of Human Services to include the ages of both parents as part of their database on infant mortality.

The Department of Health, through the Office of Health Status Monitoring, maintains data regarding the ages of both parents where both the infant birth and death occurred in Hawaii. According to the data on hand, seven girls, who were seventeen years old or younger, gave birth to infants that died. Six of the seven fathers of the infants were adults between the ages of eighteen and twenty nine years old. (See attachment 1 – 2002 Infant Deaths by Age of Mother and Age of Father.)

Recommendation Three:

Request that the University of Hawaii include the ages of both parents in their Kids Count survey.

The Hawaii Kids Count program and survey is administered through the University of Hawaii Center on the Family. The goal of Hawaii Kids Count is to improve the well being of Hawaii's children and their families by studying and reporting on the conditions that serve as a catalyst for positive change in those families. Hawaii Kids Count collects its data from a survey that it conducts every year. The Hawaii Kids Count survey currently collects data only about the age of a child's mother. The director of the Center on the Family has been made aware of the Age of Consent Task Force's recommendation, and is currently looking into adding a question asking for the age of a child's father starting in the 2004 survey.

Recommendation Six:

Service providers should collect data on the age of adult partners.

A. Sex Abuse Treatment Center (SATC)

The Sex Abuse Treatment Center (SATC) is part of the Kapiolani Medical Center for Women and Children. SATC assists the victims of sexual assault by providing comprehensive services that address the particular physical, emotional, and social needs of sexual assault victims and their families.

SATC does not routinely collect data on the perpetrator of a sexual assault. It should be noted that, especially where the victim had no prior contact with the perpetrator, victims are not always able to provide information on the age of the perpetrator. However, SATC has been made aware of the recommendation of the Age of Consent Task Force, and SATC will attempt to collect this type of information from this point forward.

In calendar year 2002, SATC provided services to seventy-nine sexual assault victims, who were between fourteen and sixteen years of age. From the data

that they were able to collect, twenty of the perpetrators were at least eighteen years old. Of those adult offenders, some of the perpetrators were in their fifties. Another ten perpetrators were classified as adults without a specified age. (See attachment 2 for a more specific breakdown – SATC Age of Consent Data.)

From January through September 2003, SATC provided services to sixty-three sexual assault victims, who were between fourteen and sixteen years of age. The data that SATC was able to collect showed that seventeen perpetrators were at least eighteen years old, and some were as old as being in their forties. Another six perpetrators were classified as adults without a specified age. (See attachment 2 for a more specific breakdown – Sex Abuse Treatment Center - Age of Consent Data.)

B. Hawaii Children’s Justice Centers

The Hawaii Children’s Justice Centers are part of the Hawaii State Judiciary. The program brings together a multidisciplinary team of professionals who, among other things, conduct investigations of child abuse, including child sexual assaults and neglect. The Hawaii Children’s Justice Center has locations on Oahu, the Big Island, Maui, and Kauai. The Maui Center also handles child victims from Lanai and Molokai as well.

The Hawaii Children’s Justice Centers gets its data from reporting officials, which include law enforcement agencies (Honolulu Police Department - HPD, Federal Bureau of Investigation – FBI, military investigative agencies) and the State of Hawaii’s Child Protective Services (CPS).

The data provided by the Hawaii Children’s Justice Centers shows that in calendar year 2002, a total of 268 sexual abuse reports were made that involved victims between the ages of fourteen to sixteen years of age, and, correspondingly, adult suspects who were at least eighteen years of age or

older. (See attachment 3 – Hawaii Children’s Justice Centers - Calendar Year 2002 reports.)

From January to October, 2003, there have been one hundred and sixty-four sexual abuse reports that involve victims between the ages of fourteen to sixteen years of age, and adult suspects who were eighteen years of age or older. (See attachment 4 – Hawaii Children’s Justice Centers (Year to date Calendar Year 2003 reports. Note: The lower numbers for 2003 do not mean that there were fewer sexual abuse cases in 2003; the data is still being compiled.)

C. Planned Parenthood of Hawaii

Planned Parenthood of Hawaii provides affordable and confidential reproductive care services to Hawaii’s teens, women, and men. Planned Parenthood of Hawaii has three locations on Oahu, Maui, and Kona.

Planned Parenthood of Hawaii is currently not collecting data on adult partners. The director of Planned Parenthood of Hawaii has been made aware of the Age of Consent task force recommendation and is looking into collecting this data.

D. The Teen Intervention Program at Kapiolani Medical Center for Women and Children

The Teen Intervention Program at Kapiolani Medical Center for Women and Children provides counseling and education to teens eighteen years of age and younger along with their parents and their partners.

According to the data provided by the Teen Intervention Program:

1. In fiscal year 2001–2002, the Teen Intervention Program met with twenty-nine teenagers who were thirteen through seventeen years old.

Of those twenty-nine teenagers, eighteen had adult partners who were between the ages of eighteen and twenty-four years old. Focusing on the age group affected by the age of consent law, of the eighteen teenagers between fourteen through sixteen years of age, seven had partners who were five years or older than they were. (See attachment 5 – Teen Intervention Program Age of Consent Data.)

2. During fiscal year 2002–2003, the Teen Intervention Program met with fifty teenagers between thirteen through seventeen years old. Of those fifty teenagers, twenty-nine had adult partners who were between the ages of eighteen and twenty-seven years old. In the age group affected by the age of consent law, there were thirty-six teenagers between the ages of fourteen and sixteen years old, who had seven adult partners who were at least five years older than them. (See attachment 5– Teen Intervention Program Age of Consent Data.)