

# REVISED LAWS

OF

# HAWAII

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## RAPE, ABDUCTION, SEDUCTION.

**Sec. 4147. Rape; punishment.** Whoever commits a rape, that is, ravishes or has carnal intercourse with any female, by force and against her will, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor for life or any number of years. [P. C. 1869, c. 11, s. 1; P. L. s. 76; R. L. s. 2927; R. L. 1915, s. 3894.]

Age of female need not be averred and proved: *King v. Heinrichs*, 3 H. 40. Even if sentence does not include fine, relief cannot be had on habeas corpus: *In re Hoopa*, 10 H. 610. Essential to prove penetration though the degree is immaterial: *Rep. v. Muramoto*, 11 H. 774. In the absence of threats or other things which make resistance impossible there must be not only entire absence of mental consent, but there must be the most vehement exercise of every physical means or faculty within the woman's power to resist: *Ter. v. Nishi*, 24 H. 677, 682. Cited in *In re Gamaya*, 25 H. 414. Cited in *In re Dizon*, 26 H. 363.

**Sec. 4148. Carnal abuse of female under twelve; punishment.** Whoever ravishes or carnally abuses and knows any female child under the age

**Sec. 4154. Consent of female under twelve, void.** If the female so abducted be a child under twelve years of age, such abduction shall be conclusively presumed to be by force, and without her consent and against her will. [P. C. 1869, c. 11, s. 5; P. L. s. 80; R. L. s. 2931; am. L. 1909, c. 37, s. 2; R. L. 1915, s. 3901.]

**Sec. 4155. Seduction; punishment.** Whoever by conspiracy or by wilful falsehood or deceit, or under promise of marriage, seduces, causes or procures any unmarried female to commit fornication, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years; **provided**, however, that in case the parties to the fornication subsequently legally intermarry together the above penalty shall not thereupon be inflicted. [P. C. 1869, c. 11, s. 6; am. L. 1888, c. 32, s. 1; P. L. s. 81; R. L. s. 2932; R. L. 1915, s. 3902.]

Erroneous to charge that, after evidence of acts of unchastity of prosecutrix committed repeatedly and within a year or two prior to the alleged seduction, reformation may be presumed without proof after a reasonable lapse of time: **Woodward v. Ter.**, 10 H. 416, 420. Chastity of female need not be alleged by prosecution nor need it be proved before it is attacked, if at all. Corroborating evidence is necessary to establish the promise of marriage and the carnal connection: **Ter. v. Capitan**, 23 H. 771. The testimony of the female of the promise to marry must be corroborated by evidence either direct or circumstantial: **Ter. v. Fernandez**, 24 H. 617.

**Sec. 4156. Evidence.** The female upon whom rape is alleged to have been committed, or who is alleged to have been abducted or seduced, is a competent witness in a prosecution for the rape, abduction or seduction; but no person shall be convicted of rape, seduction or abduction, upon the mere testimony of the female uncorroborated by other evidence direct or circumstantial. [P. C. 1869, c. 11, s. 7; P. L. s. 82; R. L. s. 2933; R. L. 1915, s. 3903.]

Supporting evidence of the promise to marry and the carnal connection is necessary, but not of the previous chastity of prosecutrix or that she was unmarried: **Ter. v. Capitan**, 23 H. 771. See **Ter. v. Nishi**, 24 H. 677, overruling **Ter. v. Schilling**, 17 H. 249, regarding rule of corroboration by evidence of complaint by prosecutrix, also for instructions to jury. No general rule as to what is corroboration and each case must depend on its own circumstances: **Ter. v. Fong Yee**, 25 H. 309, 316.