

---

---

# A BILL FOR AN ACT

RELATING TO CRIMES AGAINST MINORS.

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

1 SECTION 1. Section 706-606.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (1) to read as follows:

3 "(1) Notwithstanding section 706-669 and any other law to  
4 the contrary, any person convicted of murder in the second  
5 degree, any class A felony, any class B felony, or any of the  
6 following class C felonies: section 188-23 relating to  
7 possession or use of explosives, electrofishing devices, and  
8 poisonous substances in state waters; section 707-703 relating  
9 to negligent homicide in the [~~first~~] second degree; section 707-  
10 711 relating to assault in the second degree; section 707-713  
11 relating to reckless endangering in the first degree; section  
12 707-716 relating to terroristic threatening in the first degree;  
13 section 707-721 relating to unlawful imprisonment in the first  
14 degree; section 707-732 relating to sexual assault or rape in  
15 the third degree; [~~707-735 relating to sodomy in the third~~  
16 ~~degree; 707-736 relating to sexual abuse in the first degree;~~]  
17 [~~707-751~~] section 707-752 relating to promoting child abuse in  
18 the [~~second~~] third degree; section 707-757 relating to



1 electronic enticement of a child in the second degree; section  
2 707-766 relating to extortion in the second degree; section 708-  
3 811 relating to burglary in the second degree; section 708-821  
4 relating to criminal property damage in the second degree;  
5 section 708-831 relating to theft in the first degree as amended  
6 by Act 68, Session Laws of Hawaii 1981; section 708-831 relating  
7 to theft in the second degree; section 708-835.5 relating to  
8 theft of livestock; section 708-836 relating to unauthorized  
9 control of propelled vehicle; section 708-852 relating to  
10 forgery in the second degree; section 708-854 relating to  
11 criminal possession of a forgery device; section 708-875  
12 relating to trademark counterfeiting; section 710-1071 relating  
13 to intimidating a witness; section 711-1103 relating to riot;  
14 section 712-1203 relating to promoting prostitution in the  
15 second degree; section 712-1221 relating to gambling in the  
16 first degree; section 712-1224 relating to possession of  
17 gambling records in the first degree; section 712-1243 relating  
18 to promoting a dangerous drug in the third degree; section 712-  
19 1247 relating to promoting a detrimental drug in the first  
20 degree; section 134-7 relating to ownership or possession of  
21 firearms or ammunition by persons convicted of certain crimes;  
22 section 134-8 relating to ownership, etc., of prohibited



1 weapons; section 134-9 relating to permits to carry, or who is  
2 convicted of attempting to commit murder in the second degree,  
3 any class A felony, any class B felony, or any of the class C  
4 felony offenses enumerated above and who has a prior conviction  
5 or prior convictions for the following felonies, including an  
6 attempt to commit the same: murder, murder in the first or  
7 second degree, a class A felony, a class B felony, any of the  
8 class C felony offenses enumerated above, or any felony  
9 conviction of another jurisdiction shall be sentenced to a  
10 mandatory minimum period of imprisonment without possibility of  
11 parole during such period as follows:

12 (a) One prior felony conviction:

13 (i) Where the instant conviction is for murder in the  
14 second degree or attempted murder in the second  
15 degree--ten years;

16 (ii) Where the instant conviction is for a class A  
17 felony--six years, eight months;

18 (iii) Where the instant conviction is for a class B  
19 felony--three years, four months;

20 (iv) Where the instant conviction is for a class C  
21 felony offense enumerated above--one year, eight  
22 months;



- 1 (b) Two prior felony convictions:
  - 2 (i) Where the instant conviction is for murder in the
  - 3 second degree or attempted murder in the second
  - 4 degree--twenty years;
  - 5 (ii) Where the instant conviction is for a class A
  - 6 felony--thirteen years, four months;
  - 7 (iii) Where the instant conviction is for a class B
  - 8 felony--six years, eight months;
  - 9 (iv) Where the instant conviction is for a class C
  - 10 felony offense enumerated above--three years,
  - 11 four months;
- 12 (c) Three or more prior felony convictions:
  - 13 (i) Where the instant conviction is for murder in the
  - 14 second degree or attempted murder in the second
  - 15 degree--thirty years;
  - 16 (ii) Where the instant conviction is for a class A
  - 17 felony--twenty years;
  - 18 (iii) Where the instant conviction is for a class B
  - 19 felony--ten years;
  - 20 (iv) Where the instant conviction is for a class C
  - 21 felony offense enumerated above--five years."



1 SECTION 2. Section 707-756, Hawaii Revised Statutes, is  
2 amended by amending subsection (2) to read as follows:

3 "(2) Electronic enticement of a child in the first degree  
4 is a class B felony. Notwithstanding any law to the contrary,  
5 if a person sentenced under this section is sentenced to  
6 probation rather than an indeterminate term of imprisonment, the  
7 terms and conditions of probation shall include but not be  
8 limited to a term of imprisonment of one year."

9 SECTION 3. Section 707-757, Hawaii Revised Statutes, is  
10 amended by amending subsection (2) to read as follows:

11 "(2) Electronic enticement of a child in the second degree  
12 is a class C felony. Notwithstanding any law to the contrary,  
13 if a person sentenced under this section is sentenced to  
14 probation rather than an indeterminate term of imprisonment, the  
15 terms and conditions of probation shall include but not be  
16 limited to a term of imprisonment of one year."

17 SECTION 4. Section 853-4, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§853-4 Chapter not applicable; when.** This chapter shall  
20 not apply when:

21 (1) The offense charged involves the intentional, knowing,  
22 reckless, or negligent killing of another person;



- 1           (2) The offense charged is:
  - 2                   (A) A felony that involves the intentional, knowing,
  - 3                           or reckless bodily injury, substantial bodily
  - 4                           injury, or serious bodily injury of another
  - 5                           person; or
  - 6                   (B) A misdemeanor or petty misdemeanor that carries a
  - 7                           mandatory minimum sentence and that involves the
  - 8                           intentional, knowing, or reckless bodily injury,
  - 9                           substantial bodily injury, or serious bodily
  - 10                          injury of another person;
- 11          (3) The offense charged involves a conspiracy or
- 12                   solicitation to intentionally, knowingly, or
- 13                   recklessly kill another person or to cause serious
- 14                   bodily injury to another person;
- 15          (4) The offense charged is a class A felony;
- 16          (5) The offense charged is nonprobationable;
- 17          (6) The defendant has been convicted of any offense
- 18                   defined as a felony by the Hawaii Penal Code or has
- 19                   been convicted for any conduct that if perpetrated in
- 20                   this State would be punishable as a felony;
- 21          (7) The defendant is found to be a law violator or
- 22                   delinquent child for the commission of any offense

1 defined as a felony by the Hawaii Penal Code or for  
2 any conduct that if perpetrated in this State would  
3 constitute a felony;

4 (8) The defendant has a prior conviction for a felony  
5 committed in any state, federal, or foreign  
6 jurisdiction;

7 (9) A firearm was used in the commission of the offense  
8 charged;

9 (10) The defendant is charged with the distribution of a  
10 dangerous, harmful, or detrimental drug to a minor;

11 (11) The defendant has been charged with a felony offense  
12 and has been previously granted deferred acceptance of  
13 guilty plea status for a prior offense, regardless of  
14 whether the period of deferral has already expired;

15 (12) The defendant has been charged with a misdemeanor  
16 offense and has been previously granted deferred  
17 acceptance of guilty plea status for a prior felony,  
18 misdemeanor, or petty misdemeanor for which the period  
19 of deferral has not yet expired;

20 (13) The offense charged is:

21 (A) Escape in the first degree;

22 (B) Escape in the second degree;



- 1 (C) Promoting prison contraband in the first degree;
- 2 (D) Promoting prison contraband in the second degree;
- 3 (E) Bail jumping in the first degree;
- 4 (F) Bail jumping in the second degree;
- 5 (G) Bribery;
- 6 (H) Bribery of a witness;
- 7 (I) Intimidating a witness;
- 8 (J) Bribery of or by a juror;
- 9 (K) Intimidating a juror;
- 10 (L) Jury tampering;
- 11 (M) Promoting prostitution in the first degree;
- 12 (N) Promoting prostitution in the second degree;
- 13 (O) Promoting prostitution in the third degree;
- 14 (P) Abuse of family or household members;
- 15 (Q) Sexual assault in the second degree;
- 16 (R) Sexual assault in the third degree; [~~or~~]
- 17 (S) A violation of an order issued pursuant to
- 18 chapter 586; [~~or~~]
- 19 (T) Electronic enticement of a child in the first
- 20 degree;
- 21 (U) Electronic enticement of a child in the second
- 22 degree;





1           or

2           (14) The defendant has been charged with:

3           (A) Knowingly or intentionally falsifying any report  
4                       required under chapter 11, subpart B of part XII,  
5                       with the intent to circumvent the law or deceive  
6                       the campaign spending commission; or

7           (B) Violating section 11-201 or 11-202.

8           The court may adopt by rule other criteria in this area."

9           SECTION 5. This Act does not affect rights and duties that  
10           matured, penalties that were incurred, and proceedings that were  
11           begun, before its effective date.

12           SECTION 6. Statutory material to be repealed is bracketed  
13           and stricken. New statutory material is underscored.

14           SECTION 7. This Act shall take effect on January 1, 2096.



SB2265  
SD1  
HD1

**Report Title:**

Minors; New Felonies & Misdemeanors

**Description:**

Adds electronic enticement of a child to the list of class C felonies subject to repeat offender sentencing. Mandates at least 1 year incarceration for defendants convicted of electronic enticement of a child. Eliminates the possibility of a deferred plea for those who enter a plea to the crime of electronic enticement of a child. Effective date 1/1/2096.  
(SB2265 HD1)

