
A BILL FOR AN ACT

RELATING TO SAFETY.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER
5 CYBERSAFETY; COMPUTER TECHNICIANS AND INTERNET SERVICE PROVIDERS

6 SA-1 Failure to report computer child pornography. (a)

7 A person commits the offense of failure to report computer
8 child pornography if the person:

- 9 (1) is the owner, operator, or employee of an
10 interactive computer service, internet service
11 provider, bulletin board service, or is a
12 computer technician; and either
13 (2) knowingly fails to notify a law enforcement
14 official having jurisdiction that a subscriber is
15 using the interactive computer service, internet
16 service, or bulletin board service to acquire,
17 possess, solicit, or transmit child pornography,
18 or knowingly fails to furnish a copy of that



1 image, or picture, to the law enforcement agency;
2 or knowingly fails to keep the image or picture
3 according to law enforcement agency's
4 instructions; or

5 (3) knowingly fails to notify a law enforcement
6 official having jurisdiction that through their
7 knowledge or observation, within the scope of
8 their professional capacity or employment, of the
9 existence of an electronic visual image,
10 computer-generated image or picture depicting a
11 person that the computer technician has reason to
12 know or believe is a child engaged in child
13 pornography; or knowingly fails to furnish a copy
14 of that image or picture, to the law enforcement
15 agency; or knowingly fails to keep the image or
16 picture, according to law enforcement agency's
17 instructions.

18 (b) Failure to report computer child pornography is a
19 class C felony.

20 **SA-2 Civil immunity.** (a) If a computer technician
21 reports to a law enforcement agency having jurisdiction, their
22 knowledge or observation, within the scope of their professional



1 capacity or employment, of an electronic visual image, computer-
2 generated image or picture depicting a person that the computer
3 technician has reason to know or believe is a child engaged in
4 child pornography; furnishes a copy of that image or picture to
5 the law enforcement agency; or keeps the image, picture, or
6 sound recording according to law enforcement agency's
7 instructions, both of the following shall apply:

- 8 (1) The identity of the computer technician shall be
9 confidential, subject to disclosure only with
10 their consent or by judicial process; and
- 11 (2) If the computer technician acted in good faith,
12 they shall be immune from civil liability that
13 might otherwise be incurred by their actions.

14 This immunity extends only to acts described in
15 this section.

16 (b) If the owner, operator, or employee of an interactive
17 computer service, internet service provider, or bulletin board
18 service reports to a law enforcement agency having jurisdiction,
19 their knowledge or observation, that a subscriber is using the
20 interactive computer service, internet service, or bulletin
21 board service to acquire, possess, solicit, or transmit child
22 pornography of an electronic visual image, computer-generated



1 image or picture depicting a person that the owner, operator, or
2 employee of an interactive computer service, internet service
3 provider, or bulletin board service has reason to know or
4 believe is a child engaged in child pornography, furnishes a
5 copy of that image or picture to the law enforcement agency or
6 keeps the image or picture according to law enforcement agency's
7 instructions, both of the following shall apply:

8 (1) The identity of the owner, operator, or employee
9 of an interactive computer service, internet
10 service provider, or bulletin board service shall
11 be confidential, subject to disclosure only with
12 their consent or by judicial process; and

13 (2) If the owner, operator, or employee of an
14 interactive computer service, internet service
15 provider, or bulletin board service acted in good
16 faith, they shall be immune from civil liability
17 that might otherwise be incurred by their
18 actions. This immunity extends only to acts
19 described in this section.

20 **§A-3 Definitions.** As used in this chapter:

21 "Child pornography" means any pornographic visual
22 representation, including any photograph, film, video, picture,



1 or computer or computer-generated image or picture, whether made
2 or produced by electronic, mechanical, or other means, of sexual
3 conduct, if:

4 (a) The pornographic production of such visual
5 representation involves the use of a minor engaging in
6 sexual conduct; or

7 (b) The pornographic visual representation has been
8 created, adapted, or modified to appear that an
9 identifiable minor is engaging in sexual conduct.

10 "Computer technician" means a person who installs,
11 maintains, troubleshoots, upgrades, or repairs computer
12 hardware, software, personal computer networks, or peripheral
13 equipment.

14 "Information content provider" means any person or entity
15 that is responsible, in whole or in part, for the creation or
16 development of information provided through the internet or any
17 other interactive computer service.

18 "Interactive computer service" means any information
19 system, service, or access software provider that provides or
20 enables computer access by multiple users to a computer server,
21 including specifically a service or system that provides service
22 to the internet.





1 "Internet" means collectively the myriad of computer and
 2 telecommunications facilities, including equipment and operating
 3 software that comprise the interconnected world-wide network of
 4 networks that employ the Transmission Control Protocol/Internet
 5 Protocol, or any predecessor or successor protocols to that
 6 protocol, to communicate information of all kinds by wire or
 7 radio.

8 "Internet service provider" or "provider" means any person,
 9 business or organization qualified to do business in this State
 10 that provides individuals, corporations, or other entities with
 11 the ability to connect to the internet through equipment that is
 12 located in this State."

13 SECTION 2. This Act shall take effect upon its approval.
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INTRODUCED BY:

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Report Title:

Public safety

Description:

Mandates that internet service providers and computer technicians report incidents of child pornography discovered during their course of business. Provides civil immunity for good faith disclosure to law enforcement authorities.

