
A BILL FOR AN ACT

RELATING TO PORNOGRAPHY OFFENSES AGAINST CHILDREN.

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

1 SECTION 1. Chapter 712, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§712- Disseminating material that is pornographic for
5 minors to other minors over the Internet or by electronic
6 communication. (1) A person commits the offense of
7 disseminating material that is pornographic for minors over the
8 Internet or by electronic communication if, knowing the
9 character and content of the material disseminated, the person
10 knowingly transmits the material directly to a specific
11 individual who is known or believed by the person to be a minor,
12 material that is pornographic.

13 (2) A transmission of material that is pornographic for
14 minors or in a listserve or chatroom shall not be a crime under
15 this section, unless the transmission is made directly to a
16 specific individual who is known or believed by the transmitter
17 to be a minor.



1 (3) For purposes of determining whether material is
2 "pornographic for minors", the standards of the national
3 community shall be applied.

4 (4) Disseminating material that is pornographic for minors
5 over the Internet or by electronic device is a class felony."

6 SECTION 2. Section 712-1210, Hawaii Revised Statutes, is
7 amended by amending the definition of "pornographic for minors"
8 to read as follows:

9 "'Pornographic for minors." Any material or performance is
10 "pornographic for minors" if:

11 (1) It is primarily devoted to explicit and detailed
12 narrative accounts of sexual excitement, sexual
13 conduct, or sadomasochistic abuse; and:

14 (a) It is presented in such a manner that the average
15 person applying contemporary community standards,
16 would find that, taken as a whole, it appeals to
17 a minor's prurient interest[+] in sex;

18 (b) It is patently offensive to prevailing standards
19 in the adult community as a whole with respect to
20 what is suitable material for minors; and

21 (c) Taken as a whole, it lacks serious literary,
22 artistic, political, or scientific value; or



1 (2) It contains any photograph, drawing, or similar visual
 2 representation of any person of the age of puberty or
 3 older revealing such person with less than a fully
 4 opaque covering of his or her genitals and pubic area,
 5 or depicting such person in a state of sexual
 6 excitement or engaged in acts of sexual conduct or
 7 sadomasochistic abuse; and:

8 (a) It is presented in such a manner that the average
 9 person, applying contemporary community
 10 standards, would find that, taken as a whole, it
 11 appeals to a minor's prurient interest; ~~and~~

12 (b) Taken as a whole, it lacks serious literary,
 13 artistic, political, or scientific value~~[-]~~; and

14 (c) It depicts or describes sexual conduct in a
 15 patently offensive way."

16 SECTION 3. Section 712-1215, Hawaii Revised Statutes, is
 17 amended by amending subsection (1) to read as follows:

18 "(1) A person commits the offense of promoting pornography
 19 for minors if:

20 (a) Knowing its character and content, the person
 21 disseminates ~~[to a minor]~~ material ~~[which]~~ that is
 22 pornographic for minors~~[-]~~ to a minor known by the



1 person to be under the age of eighteen years, or who
2 the person believes to be under the age of eighteen
3 years;

4 (b) Knowing the character and content of a motion picture
5 film or other performance which[, ~~in whole or in~~
6 ~~part,~~] is pornographic for minors, the person:

7 (i) Exhibits such motion picture film or other
8 performance to a minor; or

9 (ii) Sells to a minor an admission ticket or pass to
10 premises where there is exhibited or to be
11 exhibited such motion picture film or other
12 performance; or

13 (iii) Admits a minor to premises where there is
14 exhibited or to be exhibited such motion picture
15 film or other performance."

16 SECTION 4. Section 806-83, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Criminal charges may be instituted by written
19 information for a felony when the charge is a class C felony
20 under section 19-3.5 (voter fraud); section 128D-10 (knowing
21 releases); section 132D-14(a)(1), (2)(A), and (3) (relating to
22 penalties for failure to comply with requirements of sections



1 132D-7, 132D-10, and 132D-16); section 134-24 (place to keep
2 unloaded firearms other than pistols and revolvers); section
3 134-7(a) and (b) (ownership or possession prohibited); section
4 134-8 (ownership, etc., of automatic firearms, silencers, etc.,
5 prohibited; penalties); section 134-9 (licenses to carry);
6 section 134-17(a) (relating to false information or evidence
7 concerning psychiatric or criminal history); section 134-51
8 (deadly weapons); section 134-52 (switchblade knives); section
9 134-53 (butterfly knives); section 188-23 (possession or use of
10 explosives, electrofishing devices, and poisonous substances in
11 state waters prohibited); section 231-34 (attempt to evade or
12 defeat tax); section 231-36 (false and fraudulent statements);
13 section 245-37 (sale or purchase of packages of cigarettes
14 without stamps); section 245-38 (vending unstamped cigarettes);
15 section 245-51 (export and foreign cigarettes prohibited);
16 section 245-52 (alteration of packaging prohibited); section
17 291C-12.5 (accidents involving substantial bodily injury);
18 section 291E-61.5 (habitually operating a vehicle under the
19 influence of an intoxicant); section 329-41 (prohibited acts
20 B-penalties); section 329-42 (prohibited acts C-penalties);
21 section 329-43.5 (prohibited acts related to drug
22 paraphernalia); section 329C-2 (manufacture, distribution, or



1 possession with intent to distribute an imitation controlled
2 substance to a person under eighteen years of age); section
3 346-34(d)(2) and (e) (relating to fraud involving food stamps or
4 coupons); section 346-43.5 (medical assistance frauds;
5 penalties); section 383-141 (falsely obtaining benefits, etc.);
6 section 431:2-403(b)(2) (insurance fraud); section 482D-7
7 (violation of fineness standards and stamping requirements);
8 section 485A-301 (securities registration requirement); section
9 485A-401 (broker-dealer registration requirement and
10 exemptions); section 485A-402 (agent registration requirement
11 and exemptions); section 485A-403 (investment advisor
12 registration requirement and exemptions); section 485A-404
13 (investment advisor representative registration requirement and
14 exemptions); section 485A-405 (federal covered investment
15 advisor notice filing requirement); section 485A-501 (general
16 fraud); section 485A-502 (prohibited conduct in providing
17 investment advice); section 707-703 (negligent homicide in the
18 second degree); section 707-705 (negligent injury in the first
19 degree); section 707-711 (assault in the second degree); section
20 707-713 (reckless endangering in the first degree); section
21 707-721 (unlawful imprisonment in the first degree); section
22 707-726 (custodial interference in the first degree); section



1 707-752 (promoting child abuse in the third degree); section
2 707-757 (electronic enticement of a child in the second degree);
3 section 707-766 (extortion in the second degree); section
4 708-811 (burglary in the second degree); section 708-812.6
5 (unauthorized entry in a dwelling); section 708-821 (criminal
6 property damage in the second degree); section 708-831 (theft in
7 the second degree); section 708-833.5 (shoplifting); section
8 708-835.5 (theft of livestock); section 708-836 (unauthorized
9 control of propelled vehicle); section 708-836.5 (unauthorized
10 entry into motor vehicle in the first degree); section 708-839.5
11 (theft of utility services); section 708-839.55 (unauthorized
12 possession of confidential personal information); section
13 708-839.8 (identity theft in the third degree); section 708-852
14 (forgery in the second degree); section 708-854 (criminal
15 possession of a forgery device); section 708-858 (suppressing a
16 testamentary or recordable instrument); section 708-875
17 (trademark counterfeiting); section 708-891.5 (computer fraud in
18 the second degree); section 708-892.5 (computer damage in the
19 second degree); section 708-895.6 (unauthorized computer access
20 in the second degree); section 708-8100 (fraudulent use of a
21 credit card); section 708-8102 (theft, forgery, etc., of credit
22 cards); section 708-8103 (credit card fraud by a provider of



1 goods or services); section 708-8104 (possession of unauthorized
2 credit card machinery or incomplete cards); section 708-8200
3 (cable television service fraud in the first degree); section
4 708-8202 (telecommunication service fraud in the first degree);
5 section 709-903.5 (endangering the welfare of a minor in the
6 first degree); section 709-906 (abuse of family or household
7 members); section 710-1016.3 (obtaining a government-issued
8 identification document under false pretenses in the first
9 degree); section 710-1016.6 (impersonating a law enforcement
10 officer in the first degree); section 710-1017.5 (sale or
11 manufacture of deceptive identification document); section
12 710-1018 (securing the proceeds of an offense); section 710-1021
13 (escape in the second degree); section 710-1023 (promoting
14 prison contraband in the second degree); section 710-1024 (bail
15 jumping in the first degree); section 710-1029 (hindering
16 prosecution in the first degree); section 710-1060 (perjury);
17 section 710-1072.5 (obstruction of justice); section 711-1103
18 (riot); section 711-1109.3 (cruelty to animals; fighting dogs);
19 section 711-1110.9 (violation of privacy in the first degree);
20 section 711-1112 (interference with the operator of a public
21 transit vehicle); section 712-1221 (promoting gambling in the
22 first degree); section 712-1222.5 (promoting gambling aboard



1 ships); section 712-1224 (possession of gambling records in the
2 first degree); section 712-1243 (promoting a dangerous drug in
3 the third degree); section 712-1246 (promoting a harmful drug in
4 the third degree); section 712-1247 (promoting a detrimental
5 drug in the first degree); section 712-1249.6 (promoting a
6 controlled substance in, on, or near schools, school vehicles,
7 or public parks); section 803-42 (interception, access, and
8 disclosure of wire, oral, or electronic communications, use of
9 pen register, trap and trace device, and mobile tracking device
10 prohibited); or section 846E-9(b) (failure to comply with
11 covered offender registration requirements)."

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before the effective date of this Act.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

18



Report Title:

Pornography Offenses Against Children

Description:

Creates the felony of disseminating material that is pornographic for minors. Amends the offense of promoting pornography to minors to extend the prohibition against disseminating pornographic material to minors to include disseminating pornographic material to another person who represents that person to be a minor under the age of eighteen; and adds the offense of promoting child abuse in the third degree to the information charging law. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

