
A BILL FOR AN ACT

RELATING TO SEX OFFENSES.

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

1 SECTION 1. The legislature finds that the State must do
2 more to prevent adults from engaging in sexual intercourse with
3 minors. This may be accomplished in two ways:

4 (1) Making it easier for law enforcement to stop child sex
5 predators; and

6 (2) Holding parents who offer their minor children for sex
7 accountable.

8 The legislature further finds that undercover operations
9 have shown an increase in "johns" seeking sex with a minor.
10 These "johns" communicate with an adult who represents oneself
11 to be a parent or guardian or have custody or control of the
12 child being offered for sex. However, under the current state
13 statute, only the communication from the "john" directly to the
14 minor or a law enforcement officer representing oneself to be a
15 minor is unlawful.



1 The purpose of this Act is to impose a criminal penalty:

2 (1) On a parent or guardian who offers or agrees for
3 consideration or the promise of consideration for the
4 purpose of another person engaging in sexual conduct
5 with the parent's or guardian's minor child; and

6 (2) On an adult who communicates with someone the adult
7 perceives to be the minor's parent or guardian for the
8 purpose of engaging in sexual conduct with the minor.

9 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
10 amended by adding a new section to part I to be appropriately
11 designated and to read as follows:

12 "§712- Promoting the prostitution of a minor. (1) A
13 person commits the offense of promoting prostitution of a minor
14 if a person of eighteen years of age or older that is a parent,
15 guardian, or has custody or control of a minor, intentionally,
16 knowingly, or recklessly offers or agrees for consideration or
17 the promise of consideration for the purpose of another person
18 engaging in sexual conduct with the minor.

19 (2) Promoting prostitution of a minor is a class B felony.



1 (3) For purposes of this section, "sexual conduct" shall
2 have the same meaning as that term is defined in section
3 712-1200(1)."

4 SECTION 3. Section 707-756, Hawaii Revised Statutes, is
5 amended by amending subsection (1) to read as follows:

6 "(1) Any person who, using a computer or any other
7 electronic device:

8 (a) Intentionally or knowingly communicates:

9 (i) With a minor known by the person to be under the
10 age of eighteen years;

11 (ii) With another person, in reckless disregard of the
12 risk that the other person is under the age of
13 eighteen years, and the other person is under the
14 age of eighteen years; [~~or~~]

15 (iii) With another person who represents that person to
16 be under the age of eighteen years; or

17 (iv) With another person who represents that person to
18 have control or custody of a minor, including but
19 not limited to a parent or guardian;

20 (b) With the intent to promote or facilitate the
21 commission of a felony:



1 (i) That is a murder in the first or second degree;

2 (ii) That is a class A felony; or

3 (iii) That is another covered offense as defined in

4 section 846E-1,

5 agrees to meet with the minor, [~~or~~] with another

6 person who represents that person to be a minor under

7 the age of eighteen years[+], or with another person

8 who represents that person to have control or custody

9 of a minor; and

10 (c) Intentionally or knowingly travels to the agreed upon

11 meeting place at the agreed upon meeting time,

12 is guilty of electronic enticement of a child in the first

13 degree."

14 SECTION 4. Section 707-757, Hawaii Revised Statutes, is

15 amended by amending subsection (1) to read as follows:

16 "(1) Any person who, using a computer or any other

17 electronic device:

18 (a) Intentionally or knowingly communicates:

19 (i) With a minor known by the person to be under the

20 age of eighteen years;



1 (ii) With another person, in reckless disregard of the
2 risk that the other person is under the age of
3 eighteen years, and the other person is under the
4 age of eighteen years; [~~or~~]

5 (iii) With another person who represents that person to
6 be under the age of eighteen years; or

7 (iv) With another person who represents that person to
8 have control or custody of a minor, including but
9 not limited to a parent or guardian;

10 (b) With the intent to promote or facilitate the
11 commission of a felony, agrees to meet with the minor,
12 [~~or~~] with another person who represents that person to
13 be a minor under the age of eighteen years [~~+~~], or with
14 another person represents that person to have control
15 or custody of a minor; and

16 (c) Intentionally or knowingly travels to the agreed upon
17 meeting place at the agreed upon meeting time;

18 is guilty of electronic enticement of a child in the second
19 degree."



1 SECTION 5. Section 846E-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "sexual offense" to read
3 as follows:

4 "Sexual offense" means an offense that is:

- 5 (1) Set forth in section 707-730(1), 707-731(1), 707-
6 732(1), 707-733(1)(a), 707-733.6, 712-1202(1), or 712-
7 1203(1), but excludes conduct that is criminal only
8 because of the age of the victim, as provided in
9 section 707-730(1)(b), or section 707-732(1)(b) if the
10 perpetrator is under the age of eighteen;
- 11 (2) An act defined in section 707-720 if the charging
12 document for the offense for which there has been a
13 conviction alleged intent to subject the victim to a
14 sexual offense;
- 15 (3) An act that consists of:
- 16 (A) Criminal sexual conduct toward a minor, including
17 but not limited to an offense set forth in
18 section 707-759;
- 19 (B) Solicitation of a minor who is less than fourteen
20 years old to engage in sexual conduct;
- 21 (C) Use of a minor in a sexual performance;



- 1 (D) Production, distribution, or possession of child
- 2 pornography chargeable as a felony under section
- 3 707-750, 707-751, or 707-752;
- 4 (E) Electronic enticement of a child chargeable under
- 5 section 707-756 or 707-757 if the offense was
- 6 committed with the intent to promote or
- 7 facilitate the commission of another covered
- 8 offense as defined in this section; [~~e~~]
- 9 (F) Solicitation of a minor for prostitution in
- 10 violation of section 712-1209.1; or
- 11 (G) Promoting the prostitution of a minor in
- 12 violation of section 712- _____ ;
- 13 (4) A violation of privacy under section 711-1110.9;
- 14 (5) An act, as described in chapter 705, that is an
- 15 attempt, criminal solicitation, or criminal conspiracy
- 16 to commit one of the offenses designated in paragraphs
- 17 (1) through (4);
- 18 (6) A criminal offense that is comparable to or that
- 19 exceeds a sexual offense as defined in paragraphs (1)
- 20 through (5); or



1 (7) Any federal, military, out-of-state, tribal, or
 2 foreign conviction for any offense that under the laws
 3 of this State would be a sexual offense as defined in
 4 paragraphs (1) through (6)."

5 SECTION 6. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

8 SECTION 7. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect on July 1, 2020.

11

INTRODUCED BY: Allen

Becker

John M. G. [Signature]

Mya A. [Signature]

[Signature]

Tim Wilkerson

JAN 17 2020



H.B. NO. 2122

Report Title:

Promoting the Prostitution of a Minor; Criminal Offense; Penal Code

Description:

Imposes a criminal penalty on any parent, guardian, or person having custody or control of a minor that offers or agrees for consideration for the purpose of another person having sexual conduct with the minor. Imposes a criminal penalty on any person that entices a parent, guardian, or person having custody or control of a minor by electronic means for the purposes of having sexual conduct with the minor.

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