

ACT 21

S.B. NO. 2465

A Bill for an Act Relating to Pornography.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the Hawaii penal code currently prohibits the act of promoting pornography for minors under section 712-1215, Hawaii Revised Statutes, but makes an exemption for public library staff.

The legislature finds, however, that there is no sound public policy justification for allowing library personnel to engage in that criminal offense. The other exemptions to that offense apply to parents, guardians, or siblings of a minor, or to people acting in loco parentis to the minor, which the public libraries have made clear is not applicable to them.

The legislature further finds that there is no valid concern over prosecution over such material as may be found in such periodicals as National Geographic magazine, which may contain nude photographs, because section 712-1210(7)(a)(ii), Hawaii Revised Statutes, requires material classified as “pornographic for minors” to lack “serious literary, artistic, political, or scientific value” when taken as a whole.

Accordingly, the purpose of this Act is to amend the promoting pornography for minors exemption for public library staff to limit the exemption to those acting within the scope of their employment in order to assure compliance with the Hawaii State Public Library System’s policies and guidelines prohibiting the promotion of pornography for minors.

SECTION 2. Section 712-1215, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Subsection (1) does not apply to a parent, guardian, or other person in loco parentis to the minor[,] or to a sibling of the minor, or to a person who commits

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any act specified therein in the person's capacity and within the scope of the person's employment as a member of the staff of any public library.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 19, 2000.)