

## ACT 213

S.B. NO. 2222

A Bill for an Act Relating to Sexual Images Produced by Minors.

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

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

**“§712- Promoting minor-produced sexual images in the first degree. (1)**

A person, eighteen years of age or older, commits the offense of promoting minor-produced sexual images in the first degree if the person intentionally or knowingly commands, requests, or encourages a minor to use a computer, cell phone, or any other device capable of electronic data transmission or distribution, to transmit to any person a nude photograph or video of a minor.

(2) For purposes of this section, a “minor” means any person under eighteen years of age.

(3) Promoting minor-produced sexual images in the first degree is a misdemeanor.

**§712- Promoting minor-produced sexual images in the second degree. (1)** A minor commits the offense of promoting minor-produced sexual images in the second degree if the minor:

- (a) Knowingly uses a computer, cell phone, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another person a nude photograph or video of a minor or the minor’s self; or
- (b) Intentionally or knowingly commands, requests, or encourages another minor to use a computer, cell phone, or any other device capable of electronic data transmission or distribution, to transmit to any person a nude photograph or video of a minor or the minor’s self.

(2) A person, of any age, commits the offense of promoting minor-produced sexual images in the second degree if the person knowingly possesses a nude photograph or video of a minor transmitted or distributed in violation of subsection (1). It is an affirmative defense under this subsection that the person took reasonable steps to destroy or eliminate the nude photograph or video of a minor.

(3) For purposes of this section, a “minor” means any person under eighteen years of age.

(4) Promoting minor-produced sexual images in the second degree is a petty misdemeanor.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved July 3, 2012.)

**Note**

1. Edited pursuant to HRS §23G-16.5.