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# A BILL FOR AN ACT

RELATING TO COMPUTER CRIME.

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

1           SECTION 1. The legislature finds that bullying,  
2           cyberbullying, and harassment are serious issues that hinder  
3           student well-being and achievement, especially when the targets  
4           are vulnerable youth.

5           The legislature recognizes that the department of education  
6           has recently implemented comprehensive efforts to address  
7           bullying, cyberbullying, and harassment in public schools,  
8           including the adoption of amended administrative rules that,  
9           among other things, provide expanded definitions of and  
10          complaint procedures for these forms of student misconduct.

11          However, the legislature also finds that the transition to  
12          online classroom environments as a result of the coronavirus  
13          disease 2019 pandemic has exacerbated the problems of bullying,  
14          cyberbullying, and harassment of vulnerable youth. Children who  
15          use devices such as computers, tablets, and smartphones,  
16          including children who engage in bullying conduct, often use  
17          devices that were purchased or furnished by parents or other



1 adults in the household. Some parents and guardians do not  
2 adequately monitor the online activities of their minor  
3 children, and this lack of monitoring serves to enable the minor  
4 child's bullying conduct. To the extent that bullying,  
5 cyberbullying, and harassment are prosecuted under existing  
6 penal code offenses that address harassing conduct based on  
7 electronic communication, the intent of this Act is to  
8 incentivize parents and guardians to better ensure that their  
9 minor children refrain from using electronic devices to  
10 perpetrate these acts.

11 Accordingly, the purpose of this Act is to:

- 12 (1) Add aggravated harassment by stalking to the list of  
13 offenses upon which the offense of use of a computer  
14 in the commission of a separate crime may be based;  
15 and
- 16 (2) Provide the court with the discretion to require the  
17 forfeiture of property used in computer crimes if the  
18 perpetrator was a minor, regardless of whether the  
19 minor owned the property.

20 SECTION 2. Section 708-893, Hawaii Revised Statutes, is  
21 amended by amending subsection (1) to read as follows:



1           "(1) A person commits the offense of use of a computer in  
2 the commission of a separate crime if the person knowingly uses  
3 a computer to identify, select, solicit, persuade, coerce,  
4 entice, induce, procure, pursue, surveil, contact, harass,  
5 annoy, or alarm the victim or intended victim of the following  
6 offenses:

7           (a) Section 707-726, relating to custodial interference in  
8 the first degree;

9           (b) Section 707-727, relating to custodial interference in  
10 the second degree;

11          (c) Section 707-731, relating to sexual assault in the  
12 second degree;

13          (d) Section 707-732, relating to sexual assault in the  
14 third degree;

15          (e) Section 707-733, relating to sexual assault in the  
16 fourth degree;

17          (f) Section 707-751, relating to promoting child abuse in  
18 the second degree;

19          (g) Section 711-1106, relating to harassment;

20          (h) Section 711-1106.4, relating to aggravated harassment  
21 by stalking;



1           ~~[(h)]~~ (i) Section 711-1106.5, relating to harassment by  
 2                                   stalking; or  
 3           ~~[(i)]~~ (j) Section 712-1215, relating to promoting  
 4                                   pornography for minors."

5           SECTION 3. Section 708-894, Hawaii Revised Statutes, is  
 6 amended to read as follows:

7           "~~[§]~~**§708-894**~~[§]~~ **Forfeiture of property used in computer**  
 8 **crimes.** Any property used or intended for use in the commission  
 9 of, attempt to commit, or conspiracy to commit an offense under  
 10 this part, or which facilitated or assisted such activity, shall  
 11 be forfeited subject to the requirements of chapter 712A~~[§]~~;  
 12 provided that the court shall have the discretion to require  
 13 forfeiture of the property pursuant to this section if the  
 14 perpetrator of the offense was a person under the age of  
 15 eighteen, regardless of whether the person owned the property."

16           SECTION 4. This Act does not affect rights and duties that  
 17 matured, penalties that were incurred, and proceedings that were  
 18 begun before its effective date.

19           SECTION 5. Statutory material to be repealed is bracketed  
 20 and stricken. New statutory material is underscored.

21           SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Penal Code; Computer Crime; Forfeiture; Minors

**Description:**

Adds aggravated harassment by stalking to the list of offenses upon which the offense of use of a computer in the commission of a separate crime may be based. Provides the court with the discretion to require the forfeiture of property used in computer crimes if the perpetrator was a minor, regardless of whether the minor owned the property. (HD1)

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

