

S.B. NO. 1313

JAN 23 2025

A BILL FOR AN ACT

RELATING TO THE OFFENSE OF PROMOTING PORNOGRAPHY FOR MINORS.

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

1 SECTION 1. The legislature finds that the prevention of
2 sexual exploitation and abuse of children is a government
3 objective of paramount importance, and this objective extends to
4 blocking dissemination of pornographic materials to children.
5 To improve the ability to prosecute those who promote
6 pornography for minors, Act 244, Session Laws of Hawaii 2024,
7 specifically permits the prosecution of the offense of promoting
8 pornography for minors through undercover operations.

9 The legislature further finds that large-scale undercover
10 operations have proven to be an effective tool in reducing and
11 combating offenders who solicit minors to engage in sexual
12 activities on the internet. Expeditionary charging is crucial
13 during these large-scale operations. Main charges brought from
14 these operations, the offenses of electronic enticement of a
15 child under sections 707-756 and 707-757, Hawaii Revised
16 Statutes, and the offense of commercial sexual exploitation of a
17 minor under section 712-1209, Hawaii Revised Statutes, can be
18 instituted by written information. Another major charge

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1 resulting from undercover operations, the offense of promoting
2 pornography for minors under section 712-1215, Hawaii Revised
3 Statutes, however, is included in the list of offenses that
4 cannot be instituted by written information under section 806-
5 83, Hawaii Revised Statutes.

6 Accordingly, the purpose of this Act is to enhance the
7 effectiveness of Act 244, Session Laws of Hawaii 2024, by
8 allowing the offense of promoting pornography for minors to be
9 instituted by written information.

10 SECTION 2. Section 806-83, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Criminal charges may be instituted by written
13 information for a felony when the charge is a class C felony,
14 except under:

15 (1) Section 159-28 (bribery related to the Hawaii Meat
16 Inspection Act);

17 (2) Section 161-28 (bribery related to the Hawaii Poultry
18 Inspection Act);

19 (3) Section 707-712.5 (assault against a law enforcement
20 officer in the first degree);

21 (4) Section 707-716 (terroristic threatening in the first
22 degree);

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- 1 (5) Section 707-732 (sexual assault in the third degree);
- 2 (6) Section 707-741 (incest);
- 3 (7) Section 707-752 (promoting child abuse in the third
- 4 degree);
- 5 (8) Section 708-880 (commercial bribery);
- 6 (9) Section 709-904.5 (compensation by an adult of
- 7 juveniles for crimes);
- 8 (10) Section 710-1026.9 (resisting an order to stop a motor
- 9 vehicle in the first degree);
- 10 (11) Section 710-1070 (bribery of or by a witness);
- 11 (12) Section 710-1071 (intimidating a witness);
- 12 (13) Section 710-1072.2 (retaliating against a witness);
- 13 (14) Section 710-1073 (bribery of or by a juror);
- 14 (15) Section 710-1075 (jury tampering);
- 15 (16) Section 710-1075.5 (retaliating against a juror);
- 16 (17) Section 711-1106.4 (aggravated harassment by
- 17 stalking);
- 18 (18) Section 711-1110.9 (violation of privacy in the first
- 19 degree);
- 20 (19) Section 712-1208 (promoting travel for prostitution);
- 21 (20) Section 712-1209.5 (habitual commercial sexual
- 22 exploitation);

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[~~(21)~~] ~~Section 712-1215 (promoting pornography for minors);~~
[~~(22)~~] (21) Section 712-1218 (failure to maintain age
verification records of sexual performers);
[~~(23)~~] (22) Section 712-1218.5 (failure to maintain age
verification records of sexually exploited
individuals); and
[~~(24)~~] (23) Section 712-1219 (failure to affix information
disclosing location of age verification records of
sexual performers)."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:

BY REQUEST

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Report Title:

Penal Code; Promoting Pornography for Minors; Written
Information

Description:

Authorizes the offense of Promoting Pornography for Minors to be
instituted by written information.

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

JUSTIFICATION SHEET

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DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE OFFENSE OF PROMOTING PORNOGRAPHY FOR MINORS.

PURPOSE: To authorize the offense of Promoting Pornography for Minors to be instituted by written information.

MEANS: Amend section 806-83(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Department of the Attorney General's Internet Crimes Against Children Task Force regularly conducts Operation Keiki Shield operations, where undercover law enforcement officers pose as minors on the internet to identify, locate, arrest, and prosecute offenders who solicit minors to engage in sexual activities on the Internet.

Undercover officers often receive pornographic materials during these operations, and in response, the Legislature enacted Act 244, Session Laws of Hawaii 2024 (Act 244), specifically extending the criminal offense of Promoting Pornography for Minors (section 712-1215, HRS) to persons who disseminate pornographic materials to an undercover law enforcement officer who poses as a minor.

Expeditious charging is crucial during these large-scale operations. The main charges initiated from these operations are the criminal offenses of Electronic Enticement of a Child (sections 707-756 and 707-757, HRS) and Commercial Sexual Exploitation of a Minor (section 712-1209.1, HRS), both of which can be instituted by way of written information. Therefore, to enhance the effectiveness of Act 244, this bill seeks to amend section 806-83, HRS, to allow the offense of Promoting Pornography for Minors to be instituted via written information.

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Impact on the public: This bill will have a positive impact on the public with a goal of reducing pornographic materials being distributed to minors.

Impact on the department and other agencies: This bill will greatly assist prosecutions of offenders who disseminate pornographic materials to minors.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: The county prosecutor's offices; county police departments; Department of Law Enforcement.

EFFECTIVE DATE: Upon approval.