
A BILL FOR AN ACT

RELATING TO IMAGE-BASED SEXUAL ABUSE.

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

1 SECTION 1. The legislature finds that image-based sexual
2 abuse is a form of technology-facilitated abuse that involves
3 the nonconsensual use of intimate or private images to control,
4 manipulate, or harm a victim. Online predators, often motivated
5 by money, power, control, or sexual gratification, use online
6 platforms to anonymously perpetrate image-based sexual abuse,
7 targeting vulnerable individuals to meet the perpetrator's
8 demands for money, sexual acts, and additional intimate or
9 private images, which can include images of self-harm.
10 Financial blackmail schemes involving sexual extortion through
11 the nonconsensual disclosure of intimate or private images
12 result in tragic and, at times, fatal results for the victims of
13 these schemes and may cause victims to experience significant
14 harm, including depression, fear, anxiety, damage to reputation,
15 social isolation, financial devastation, and suicide.
16 The legislature further finds that offender accountability
17 is necessary to shine the light on those who would hide behind



1 computers, mobile phones, or other electronic devices to prey
2 upon vulnerable individuals in the community.

3 Accordingly, the purpose of this Act is to establish the
4 felony offense of nonconsensual disclosure of intimate or
5 private images.

6 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
7 amended by adding a new section to part I to be appropriately
8 designated and to read as follows:

9 "§711- Nonconsensual disclosure of intimate or private
10 images. (1) A person commits the offense of nonconsensual

11 disclosure of intimate or private images if:

12 (a) The person intentionally or knowingly discloses or
13 threatens to disclose an intimate or private image of
14 another identifiable person without consent and with
15 the intent to compel or attempt to compel the person
16 depicted in the intimate or private image:

17 (i) To do or refrain from doing any act against the
18 person's will;

19 (ii) To provide additional intimate or private images;

20 (iii) To engage in sexual acts;

21 (iv) To engage in acts of self-harm; or



1 (v) For anything of value; or

2 (b) The person intentionally or knowingly discloses or
3 threatens to disclose an intimate or private image of
4 another identifiable person without consent and:

5 (i) The person depicted in the intimate or private
6 image is a minor or vulnerable adult and the
7 person committing the offense is an adult; or

8 (ii) The person depicted in the intimate or private
9 image suffers bodily injury or death as a result
10 of the nonconsensual disclosure of the intimate
11 or private image.

12 (2) Nonconsensual disclosure of intimate or private images
13 is a class B felony.

14 (3) For the purposes of this section:

15 "Bodily injury" has the same meaning as in section 707-700.

16 "Intimate image" means any digital image, photograph, or
17 live or recorded video that depicts a person in the state of
18 undress; nude as defined in section 712-1210; or engaged in
19 sexual conduct as defined in section 712-1210.

20 "Minor" means any person under the age of eighteen years.



1 "Private image" means any digital image, photograph, or
2 live or recorded video that depicts a person committing acts of
3 self-harm, self-mutilation, or other self-injury that results in
4 bodily injury.

5 "Self harm" means bodily injury, substantial bodily injury
6 as defined in 707-700, serious bodily injury as defined in
7 section 707-700, or death.

8 "Vulnerable adult" has the same meaning as in section
9 346-222."

10 SECTION 3. Section 706-662, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§706-662 Criteria for extended terms of imprisonment.** A
13 defendant who has been convicted of a felony may be subject to
14 an extended term of imprisonment under section 706-661 if it is
15 proven beyond a reasonable doubt that an extended term of
16 imprisonment is necessary for the protection of the public and
17 that the convicted defendant satisfies one or more of the
18 following criteria:

19 (1) The defendant is a persistent offender in that the
20 defendant has previously been convicted of two or more



- 1 felonies committed at different times when the
2 defendant was twenty-one years of age or older;
- 3 (2) The defendant is a professional criminal in that:
- 4 (a) The circumstances of the crime show that the
5 defendant has knowingly engaged in criminal
6 activity as a major source of livelihood; or
- 7 (b) The defendant has substantial income or resources
8 not explained to be derived from a source other
9 than criminal activity;
- 10 (3) The defendant is a dangerous person in that the
11 defendant has been subjected to a psychiatric or
12 psychological evaluation that documents a significant
13 history of dangerousness to others resulting in
14 criminally violent conduct, and this history makes the
15 defendant a serious danger to others. Nothing in this
16 section precludes the introduction of victim-related
17 data to establish dangerousness in accord with the
18 Hawaii rules of evidence;
- 19 (4) The defendant is a multiple offender in that:



- 1 (a) The defendant is being sentenced for two or more
- 2 felonies or is already under sentence of
- 3 imprisonment for any felony; or
- 4 (b) The maximum terms of imprisonment authorized for
- 5 each of the defendant's crimes, if made to run
- 6 consecutively, would equal or exceed in length
- 7 the maximum of the extended term imposed or would
- 8 equal or exceed forty years if the extended term
- 9 imposed is for a class A felony;
- 10 (5) The defendant is an offender against the elderly, the
- 11 handicapped, or a minor eight years of age or younger
- 12 in that:
- 13 (a) The defendant attempts or commits any of the
- 14 following crimes: murder, manslaughter, a sexual
- 15 offense that constitutes a felony under chapter
- 16 707, robbery, felonious assault, burglary, or
- 17 kidnapping; and
- 18 (b) The defendant, in the course of committing or
- 19 attempting to commit the crime, inflicts serious
- 20 or substantial bodily injury upon a person who
- 21 has the status of being:



- 1 (i) Sixty years of age or older;
- 2 (ii) Blind, a paraplegic, or a quadriplegic; or
- 3 (iii) Eight years of age or younger; and
- 4 the person's status is known or reasonably should
- 5 be known to the defendant;
- 6 (6) The defendant is a hate crime offender in that:
 - 7 (a) The defendant is convicted of a crime under
 - 8 chapter 707, 708, or 711; and
 - 9 (b) The defendant intentionally selected a victim or,
 - 10 in the case of a property crime, the property
 - 11 that was the object of a crime, because of
 - 12 hostility toward the actual or perceived race,
 - 13 religion, disability, ethnicity, national origin,
 - 14 gender identity or expression, or sexual
 - 15 orientation of any person. For purposes of this
 - 16 subsection, "gender identity or expression"
 - 17 includes a person's actual or perceived gender,
 - 18 as well as a person's gender identity, gender-
 - 19 related self-image, gender-related appearance, or
 - 20 gender-related expression, regardless of whether
 - 21 that gender identity, gender-related self-image,



1 gender-related appearance, or gender-related
2 expression is different from that traditionally
3 associated with the person's sex at birth; [~~or~~]

4 (7) The defendant is convicted under section 707-702.5 and
5 the defendant did not remain at the scene of the crime
6 and render reasonable assistance to an injured person,
7 including acts and omissions in violation of section
8 291C-12[-]; or

9 (8) The defendant is an offender against a minor eighteen
10 years of age or younger or a vulnerable adult, as
11 defined under section 346-22, in that:

12 (a) The defendant attempts to or commits the offense
13 of nonconsensual disclosure of intimate or
14 private images under section 711- ; and

15 (b) The attempted commission or commission of
16 nonconsensual disclosure of the intimate or
17 private image resulted in the death of the minor
18 or vulnerable adult."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Nonconsensual Disclosure of Intimate or Private Images; Felony
Offense; Penal Code; Minors; Vulnerable Adults

Description:

Establishes the nonconsensual disclosure of intimate or private
images as a criminal offense. Amends the criteria for an
extended term of imprisonment to include an offender whose act
of attempting to commit or committing the nonconsensual
disclosure of intimate or private images against a minor or
vulnerable adult resulted in the victim's death. Effective
7/1/3000. (HD1)

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