
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 images or

10 private images. (1) A person commits the offense of
11 nonconsensual disclosure of intimate images or private images
12 if:

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

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



1 (ii) To provide additional intimate images or private
2 images;

3 (iii) To engage in sexual acts;

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

5 (v) For anything of value; or

6 (vi) To affect any family court proceeding in which
7 the depicted person is a party;

8 (b) The person intentionally or knowingly discloses or
9 threatens to disclose an intimate image or private
10 image of another identifiable person without consent
11 and the person depicted in the intimate image or
12 private image:

13 (i) Is a minor or vulnerable adult and the person
14 committing the offense is an adult; or

15 (ii) Suffers bodily injury; or

16 (c) The person intentionally or knowingly discloses or
17 threatens to disclose an intimate image or private
18 image of another identifiable person without consent
19 and the nonconsensual disclosure of the intimate image
20 or private image was the proximate cause of the death



1 person depicted in the intimate image or private
2 image.

3 (2) Nonconsensual disclosure of intimate images or private
4 images shall be a class B felony.

5 (3) For the purposes of this section:

6 "Affect" means to influence or produce a change.

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

8 "Family court proceeding" means any proceeding involving a
9 temporary restraining order under section 586-4; protective
10 order under section 586-5.5; annulment, divorce, or separation
11 under chapter 580; or child custody or child support proceeding
12 under chapter 571.

13 "Intimate image" means any digital image, photograph,
14 computer-generated image or video, or live or recorded video
15 that depicts a person in the nude, as defined in section 712-
16 1210, or engaged in sexual conduct, as defined in section 712-
17 1210.

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

19 "Private image" means any digital image, photograph,
20 computer-generated image or video, or live or recorded video



1 that depicts a person committing acts of self-harm, self-
2 mutilation, or other self-injury that results in bodily injury.

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

6 "Vulnerable adult" has the same meaning as in section
7 346-222."

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

10 **"§706-662 Criteria for extended terms of imprisonment.** A
11 defendant who has been convicted of a felony may be subject to
12 an extended term of imprisonment under section 706-661 if it is
13 proven beyond a reasonable doubt that an extended term of
14 imprisonment is necessary for the protection of the public and
15 that the convicted defendant satisfies one or more of the
16 following criteria:

17 (1) The defendant is a persistent offender in that the
18 defendant has previously been convicted of two or more
19 felonies committed at different times when the
20 defendant was twenty-one years of age or older;

21 (2) The defendant is a professional criminal in that:



- 1 (a) The circumstances of the crime show that the
2 defendant has knowingly engaged in criminal
3 activity as a major source of livelihood; or
- 4 (b) The defendant has substantial income or resources
5 not explained to be derived from a source other
6 than criminal activity;
- 7 (3) The defendant is a dangerous person in that the
8 defendant has been subjected to a psychiatric or
9 psychological evaluation that documents a significant
10 history of dangerousness to others resulting in
11 criminally violent conduct, and this history makes the
12 defendant a serious danger to others. Nothing in this
13 section precludes the introduction of victim-related
14 data to establish dangerousness in accord with the
15 Hawaii rules of evidence;
- 16 (4) The defendant is a multiple offender in that:
- 17 (a) The defendant is being sentenced for two or more
18 felonies or is already under sentence of
19 imprisonment for any felony; or
- 20 (b) The maximum terms of imprisonment authorized for
21 each of the defendant's crimes, if made to run



1 consecutively, would equal or exceed in length
2 the maximum of the extended term imposed or would
3 equal or exceed forty years if the extended term
4 imposed is for a class A felony;

5 (5) The defendant is an offender against the elderly, the
6 handicapped, or a minor eight years of age or younger
7 in that:

8 (a) The defendant attempts or commits any of the
9 following crimes: murder, manslaughter, a sexual
10 offense that constitutes a felony under chapter
11 707, robbery, felonious assault, burglary, or
12 kidnapping; and

13 (b) The defendant, in the course of committing or
14 attempting to commit the crime, inflicts serious
15 or substantial bodily injury upon a person who
16 has the status of being:

17 (i) Sixty years of age or older;

18 (ii) Blind, a paraplegic, or a quadriplegic; or

19 (iii) Eight years of age or younger; and

20 the person's status is known or reasonably should
21 be known to the defendant;



- 1 (6) The defendant is a hate crime offender in that:
- 2 (a) The defendant is convicted of a crime under
- 3 chapter 707, 708, or 711; and
- 4 (b) The defendant intentionally selected a victim or,
- 5 in the case of a property crime, the property
- 6 that was the object of a crime, because of
- 7 hostility toward the actual or perceived race,
- 8 religion, disability, ethnicity, national origin,
- 9 gender identity or expression, or sexual
- 10 orientation of any person. For purposes of this
- 11 subsection, "gender identity or expression"
- 12 includes a person's actual or perceived gender,
- 13 as well as a person's gender identity, gender-
- 14 related self-image, gender-related appearance, or
- 15 gender-related expression, regardless of whether
- 16 that gender identity, gender-related self-image,
- 17 gender-related appearance, or gender-related
- 18 expression is different from that traditionally
- 19 associated with the person's sex at birth; [~~or~~]
- 20 (7) The defendant is convicted under section 707-702.5 and
- 21 the defendant did not remain at the scene of the crime



1 and render reasonable assistance to an injured person,
2 including acts and omissions in violation of section
3 291C-12[-]; or

4 (8) The defendant is an offender against a minor eighteen
5 years of age or younger or a vulnerable adult, as
6 defined under section 346-222, in that:

7 (a) The defendant attempts to or commits the offense
8 of nonconsensual disclosure of intimate images or
9 private images under section 711- ; and

10 (b) The attempted commission or commission of
11 nonconsensual disclosure of the intimate image or
12 private image was the proximate cause of the
13 death of the minor or vulnerable adult."

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

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 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 images or private images against a minor or vulnerable adult was the proximate cause of the victim's death. Effective 7/1/3000. (HD2)

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