

JAN 21 2026

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# A BILL FOR AN ACT

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RELATING TO PRIVACY.

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

1       SECTION 1. Chapter 711, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4       "§711-    Nonconsensual distribution of an intimate image.

5       (1) A person commits the offense of nonconsensual distribution  
6 of an intimate image if the person:

7       (a) Intentionally disseminates an intimate image of  
8 another person and:

9       (i) The reckless disclosure of the intimate image  
10 reveals the identity of the depicted person,  
11 including through:

12       (A) Any accompanying or subsequent information  
13 or material related to the visual material;  
14 or

15       (B) Information or material provided by a third  
16 party in response to the disclosure of the  
17 visual material;



1           (ii) The person disseminating the intimate image fails  
2           to obtain affirmative consent from the person  
3           depicted in the intimate image; and

4           (iii) The image was obtained or created under  
5           circumstances in which the person disseminating  
6           the image knew or reasonably should have known  
7           the person depicted in the intimate image had a  
8           reasonable expectation of privacy; or

9           (b) Intentionally disseminates any digitally forged  
10           intimate image of another person and:

11           (i) The disclosure of the visual material reveals the  
12           identity of the depicted person, including  
13           through:

14           (A) Any accompanying or subsequent information  
15           or material related to the image; or

16           (B) Information or material provided by a third  
17           party in response to the disclosure of the  
18           image; and

19           (ii) The person disseminating the image fails to  
20           obtain affirmative consent from the person  
21           depicted to disseminate the image.



1        (2) Any dissemination of multiple intimate images or  
2 digitally forged intimate images of the same individual as part  
3 of a common act shall constitute a single offense.

4        (3) The fact that the identifiable individual:

5        (a) Provided consent for the creation of the intimate  
6 image; or

7        (b) Disclosed the intimate image to another individual,  
8 shall not establish that the identifiable individual provided  
9 consent for the dissemination of the intimate image.

10       (4) Absent affirmative consent to disseminate, intimate  
11 content creators shall have a reasonable expectation that  
12 individuals who view their content shall not record or  
13 disseminate it.

14       (5) This section shall not apply to:

15       (a) A law enforcement officer if the intimate image was  
16 created by the law-enforcement officer pursuant to a  
17 lawful criminal investigation; and

18       (b) The provider of an electronic communication service or  
19 remote computing service for an image or video  
20 disclosed through the electronic communication service  
21 or remote computing service by another person.



1        (6) Notwithstanding section 701-108, a prosecution for  
2 nonconsensual distribution of an intimate image shall be subject  
3 to the following periods of limitation:

4        (a) For a misdemeanor, the later of the following:

5            (i) Within five years of the commission of the  
6            offense; or

7            (ii) Within three years of the date the victim  
8            discovers the offense or, by the exercise of due  
9            diligence, reasonably should have discovered the  
10           offense; or

11        (b) For a felony, the later of the following:

12           (i) Within seven years of the commission of the  
13           offense; or

14           (ii) Within three years of the date the victim  
15           discovers the offense or, by the exercise of due  
16           diligence, reasonably should have discovered the  
17           offense.

18        (7) Nonconsensual distribution of an intimate image is:

19        (a) A misdemeanor for the first offense and a class C  
20        felony for the second or subsequent offense; or



1        (b) If the person committed the offense with the intent to  
2        cause physical, mental, economic, or reputational harm  
3        to the individual portrayed in the intimate image for  
4        the purpose of profit or pecuniary gain, nonconsensual  
5        distribution of an intimate image is a class C felony  
6        for the first offense and a class B felony for the  
7        second or subsequent offense.

8        (8) For the purposes of this section:

9        "Digitally forged intimate image" means any intimate image  
10      of an identifiable individual that:

11      (a) Appears to a reasonable person to be indistinguishable  
12      from an authentic visual depiction of the individual;  
13      and

14      (b) Is generated or substantially modified using machine-  
15      learning techniques or any other computer-generated or  
16      machine-generated means to falsely depict an  
17      individual's appearance or conduct, regardless of  
18      whether the visual depiction indicates, through a  
19      label or some other form of information published with  
20      the visual depiction, that the visual depiction is not  
21      authentic.



1 "Electronic communication service" has the same meaning as  
2 defined in section 803-41.

3 "Intimate image" means any still or videographic image that  
4 depicts:

5 (a) Wholly or partially uncovered genitals, pubic area,  
6 anus, or post-pubescent female nipple or areola of an  
7 individual;

8 (b) The display or transfer of semen or vaginal secretion;  
9 or

10 (c) Sexually explicit conduct.

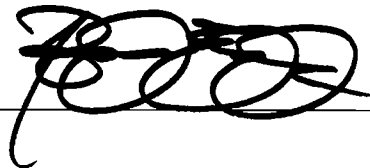
11 "Remote computing service" has the same meaning as defined  
12 in section 803-41."

13 SECTION 2. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 3. New statutory material is underscored.

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

18  
INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, consisting of a series of loops and flourishes, is written over a horizontal line.

# S.B. NO. 2135

**Report Title:**

Intimate Image; Nonconsensual Distribution; Criminal Offense

**Description:**

Establishes the offense of nonconsensual distribution of an intimate image.

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

