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# A BILL FOR AN ACT

RELATING TO PRIVACY.

**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 images 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 or threatened
- 20                  disclosure of the intimate image or private image was



1           the proximate cause of the death of the person  
2           depicted in the intimate image or private 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:

9           (a) A child custody or child support proceeding under  
10 chapter 571;

11           (b) An annulment, divorce, or separation under chapter  
12 580;

13           (c) A temporary restraining order under section 586-4; or

14           (d) A protective order under section 586-5.5.

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

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



1       "Private image" means any digital image, photograph,  
2 computer-generated image or video, or live or recorded video  
3 that depicts a person committing acts of self-harm, self-  
4 mutilation, or other self-injury that results in 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 346-222, in that:

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

16 (b) The attempted commission or commission of the  
17 nonconsensual disclosure of the intimate image or  
18 private image was the proximate cause of the  
19 death of the minor or vulnerable adult."



1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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 Statutory material to be repealed is bracketed  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

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



**Report Title:**

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

**Description:**

Establishes the nonconsensual disclosure of intimate images 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. (HD1)

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

