THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 2135 S.D. 1

A BILL FOR AN ACT

RELATING TO PRIVACY.

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

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

"**§711- Nonconsensual disclosure of an intimate image.** (1) A person commits the offense of nonconsensual disclosure of an intimate image if the person:

(a) Knowingly discloses an intimate image of another person and:

(i) The disclosure of the intimate image reveals the identity of the depicted person, including through any accompanying or subsequent information or material related to the visual material;

(ii) The person disclosing the intimate image fails to obtain affirmative consent from the person depicted in the intimate image; and

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

(b) Knowingly disclosing any digitally forged intimate image of another person and:

(i) The disclosure of the visual material reveals the identity of the depicted person, including through any accompanying or subsequent information or material related to the image; and

(ii) The person disclosing the image fails to obtain affirmative consent from the person depicted to disclose the image.

(2) The fact that the identifiable individual:

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

(b) Disclosed the intimate image to another individual,

shall not establish that the identifiable individual provided consent for the disclosure of the intimate image.

(3) Absent affirmative consent to disclose, intimate content creators shall have a reasonable expectation that individuals who view their content shall not record or disclose it.

(4) This section shall not apply to:

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

(b) An interactive computer service, as defined in title 47 United States Code section 230(f)(2), an information service for telecommunications service, as defined in title 47 United States Code section 153, for content provided by another person.

(c) The disclosure or publication of an intimate image that involves a matter of public interest or is newsworthy.

(5) Notwithstanding section 701-108, a prosecution for nonconsensual disclosure of an intimate image shall be subject to the following periods of limitation:

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

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

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

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

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

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

(6) Nonconsensual disclosure of an intimate image is:

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

(b) If the person committed the offense with the intent to cause physical, mental, economic, or reputational harm to the individual portrayed in the intimate image for the purpose of profit or pecuniary gain, nonconsensual disclosure of an intimate image is a class C felony

for the first offense and a class B felony for the second or subsequent offense.

(7) For the purposes of this section:

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

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

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

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

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

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

(c) Sexually explicit conduct.

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

SECTION 2. Section 711-1100, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

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

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. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 2077.

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Report Title:
Intimate Image; Nonconsensual Disclosure; Criminal Offense

Description:
Establishes the offense of nonconsensual disclosure of an intimate image. Effective 1/1/2077. (SD1)

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