THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 277

JAN 15 2025

A BILL FOR AN ACT

RELATING TO SEXUAL OFFENSES AGAINST MINORS.

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

SECTION 1. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (6) to read as follows:

"(6) The period of limitation does not run:

(a) During any time when the accused is continuously absent from the State or has no reasonably ascertainable place of abode or work within the State, but in no case shall this provision extend the period of limitation by more than four years from the expiration of the period of limitation prescribed in subsection (2);

(b) During any time when a prosecution against the accused for the same conduct is pending in this State; or

(c) For any felony offense under chapter 707, part V or VI, or under chapter 712, part I or II, during any time when the victim is alive and under eighteen years of age."

SECTION 2. Section 706-623, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) When the court has sentenced a defendant to be placed on probation, the period of probation shall be as follows, unless the court enters the reason therefor on the record and sentences the defendant to a shorter period of probation:

(a) Ten years upon conviction of a class A felony;

(b) Five years upon conviction of a class B or class C felony under part II, V, or VI of chapter 707, chapter 709, and part I or part II of chapter 712, and four years upon conviction of any other class B or C felony;

(c) One year upon conviction of a misdemeanor; except that upon a conviction under section 586-4, 586-11, or 709-906, the court may sentence the defendant to a period of probation not exceeding two years; or

(d) Six months upon conviction of a petty misdemeanor; provided that up to one year may be imposed upon a finding of good cause; except upon a conviction under section 709-906, the court may sentence the defendant to a period of probation not exceeding one year.

The court, on application of a probation officer, on application of the defendant, or on its own motion, may discharge the defendant at any time. Prior to the court granting early discharge, the defendant's probation officer shall be required to report to the court concerning the defendant's compliance or non-compliance with the conditions of the defendant's probation and the court shall afford the prosecuting attorney an opportunity to be heard. The terms of probation provided in this part, other than in this section, shall not apply to sentences of probation imposed under section 706-606.3."

SECTION 3. Section 712-1215.5, Hawaii Revised Statutes, is amended to read as follows:

"**[~~†~~]§712-1215.5[~~†~~] Promoting minor-produced sexual images in the first degree.** (1) A person, eighteen years of age or older, commits the offense of promoting minor-produced sexual images in the first degree if the person intentionally or knowingly commands, requests, or encourages a minor to use a computer, cell phone, or any other device capable of electronic data transmission or distribution, to transmit to any person a nude photograph or video of a minor.

(2) For purposes of this section, a "minor" means any person under eighteen years of age.

(3) Promoting minor-produced sexual images in the first degree is a [~~misdemeanor.~~] class C felony; provided that the person is three or more years older than the minor.

(4) Promoting minor-produced sexual images in the first degree is a misdemeanor; provided that the person is less than three years older than the minor."

SECTION 4. Section 846E-1, Hawaii Revised Statutes, is amended by amending the definition of "sexual offense" to read as follows:

""Sexual offense" means an offense that is:

(1) Set forth in section 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), 707-733.6, 712-1200.5(4), 712-1202(1), or 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;

(2) An act defined in section 707-720 if the charging document for the offense for which there has been a

conviction alleged intent to subject the victim to a sexual offense;

(3) An act that consists of:

(A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;

(B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;

(C) Use of a minor in a sexual performance;

(D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;

(E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; [~~or~~]

(F) Commercial sexual exploitation of a minor in violation of section 712-1209.1;

(G) Promoting pornography for minors in violation of section 712-1215; or

(H) Promoting minor-produced sexual images in the first degree in violation of section 712-1215.5(3);

(4) A violation of privacy under section 711-1110.9;

(5) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (4);

(6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (5); or

(7) Any federal, military, out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (6)."

SECTION 5. Section 846E-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration

requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender's most serious covered offense is one of the following:

(1) Any offense set forth in section 707-732(1)(d), (e), or (f); 707-733(1)(a); 707-752; 707-759; 711-1110.9; 712-1203(1); [~~or~~] 712-1209.1; 712-1215; or 712-1215.5(3);

(2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;

(3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;

(4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);

(5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4);

(6) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or

(7) Any other covered offense that is not specified in subsection (a) or (c) or paragraph (1), (2), (3), (4), (5), or (6)."

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval; provided that the amendments made to section 706-623, Hawaii

Revised Statutes, by this Act shall not be repealed when section 706-623 is reenacted on June 30, 2026, pursuant to section 15 of Act 19, Session Laws of Hawaii 2020.

INTRODUCED BY: _____

By Request

S.B. NO. 277

Report Title:
Honolulu Prosecuting Attorney Package; Criminal Offenses; Penal Code; Sexual Offenses Against Minors

Description:
Increases the penalty for promoting minor-produced sexual images to a felony if the person is more than 3 years older than the minor. Extends the probationary term for felony obscenity offenses. Tolls the statute of limitations for obscenity offenses during a victim's minority. Requires sex offender registration for felony obscenity offenses involving minors.

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