

ACT 214

H.B. NO. 1838-78

A Bill for an Act Relating to Public Health and Morals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 707- Promoting child abuse in the first degree. (1) A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person produces, directs, or participates in the preparation of material or engages in a performance which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Material” means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than sixteen years old.

“Performance” means any play, motion picture film, dance, or other exhibition performed before any audience.

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism,

bestiality, sexual intercourse, deviate sexual intercourse, or sadomasochistic abuse.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the first degree is a class B felony.

SECTION 2. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 707- Promoting child abuse in the second degree. (1) A person commits the offense of promoting child abuse in the second degree if, knowing or having reason to know its character and content, the person disseminates any material which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Disseminate” means to publish, sell, distribute, transmit, exhibit, or present material or to offer to agree to do the same.

“Material” means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than sixteen years old.

“Sexual conduct” means act of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, deviate sexual intercourse, or sadomasochistic abuse.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the material was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the second degree is a class C felony.

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act shall take effect upon its approval and shall not apply to any conduct which takes place prior to the effective date.

(Approved June 5, 1978.)

*Edited accordingly.