

ACT 218

H.B. NO. 2585-82

A Bill for an Act Relating to Child Abuse.

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

SECTION 1. Section 707-750, Hawaii Revised Statutes, is amended to read as follows:

“[[§707-750]] 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 pornographic material or engages in a pornographic 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.

“Pornographic” shall have the same meaning as defined in section 712-1210.

(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 con-

tained in the pornographic 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. Section 707-751, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§707-751]]~~ **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 pornographic 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 or 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 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.

“Pornographic” shall have the same meaning as defined in section 712-1210.

(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 pornographic 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. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 12, 1982.)