

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 by amending subsections (1) and (2) to read as follows:

“(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] that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Community standards” means the standards of the State.

“Lascivious” means tending to excite lust, to deprave the morals in respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

“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.

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

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual penetration, deviate sexual intercourse, [or] sadomasochistic abuse[.], or lascivious exhibition of the genital or pubic area of a minor.

“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.]”

SECTION 2. Section 707-751, Hawaii Revised Statutes, is amended by amending subsections (1) and (2) to read as follows:

“(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 possesses or 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:

“Community standards” means the standards of the State.

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

“Lascivious” means tending to incite lust, to deprave the morals in respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

“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.

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

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

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual penetration, deviate sexual intercourse, ~~or~~ sadomasochistic abuse ~~or lascivious exhibition of the genital or pubic area of a minor.~~

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

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. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 3, 1997.)