

ACT 278

H.B. NO. 955

A Bill for an Act Relating to Crime.

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

PART I.

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

**“§711- Violation of privacy in the first degree.** (1) A person commits the offense of violation of privacy in the first degree if, except in the execution of a public duty or as authorized by law, the person intentionally or knowingly installs in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, photographing, videotaping, filming, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place, or uses any such unauthorized installation.

(2) Violation of privacy in the first degree is a class C felony.”

SECTION 2. Section 711-1111, Hawaii Revised Statutes, is amended to read as follows:

**“§711-1111 Violation of privacy[.] in the second degree.** (1) A person commits the offense of violation of privacy in the second degree if, except in the execution of a public duty or as authorized by law, the person intentionally:

- (a) Trespasses on property for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place; or
- (b) Installs in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, photographing, videotaping, filming, recording, amplifying, or broadcasting sounds or events in that place[.] other than another person in a stage of undress or sexual activity, or uses any such unauthorized installation; or
- (c) Installs or uses outside a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein; or
- (d) Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, electronic transmission, or other means of communicating privately; but this subsection does not apply to:
  - (i) Overhearing of messages through a regularly installed instrument on a telephone party line or an extension; or
  - (ii) Interception by the telephone company, electronic mail account provider, or telephone or electronic mail subscriber incident to enforcement of regulations limiting use of the facilities or incident to other operation and use; or

- (e) Divulges without the consent of the sender or the receiver the existence or contents of any message by telephone, telegraph, letter, electronic transmission, or other means of communicating privately, if the accused knows that the message was unlawfully intercepted, or if the accused learned of the message in the course of employment with an agency engaged in transmitting it[.]; or
- (f) Knowingly possesses materials created under circumstances prohibited in section 711-.
- (2) Violation of privacy in the second degree is a misdemeanor.”

## PART II.

SECTION 3. The primary purpose of this Part is to maintain support for the crime victim compensation commission until it is self-sufficient and independent of state appropriations. In working towards self-sufficiency, the commission must be given three to five years to build its revenues. California’s crime victim board is an example of a program that came from being millions of dollars in debt to being able to provide rebates in the form of monetary incentives to the judiciary and corrections. Across the nation, twenty-nine states are able to maintain self-sufficiency through a system of compensation fees, civil recoveries, and restitution and are not dependent on general fund appropriations. Of the remaining twenty-one states, twelve fund their programs through general fund appropriations, a federal grant, and offender assessments and nine are funded by general fund appropriations and a federal grant. During the first six months of implementation, the commission received \$105,000 in revenues. This is far short of the resources needed to operate an effective program.

SECTION 4. Section 351-62.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Funds received pursuant to section 354D-12(b)(1) and amounts received pursuant to sections 351-35, 351-62.6, 351-63, and 706-605 shall be deposited into the crime victim compensation special fund. Moneys received shall be used for compensation payments, [and] operating expenses, [of which not more than thirty per cent shall be used for operating expenses and to fund] salaries of positions as authorized by the legislature[.], and collection of fees. The commission may enter into memorandums of agreement with the judiciary for the collection of fees by the judiciary; provided that no funds shall be deposited by the judiciary into the crime victim compensation special fund until collected.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval; provided that Section 4 shall take effect on July 1, 1999, and shall be repealed on July 1, 2001.

(Approved July 6, 1999.)

### Note

1. Edited pursuant to HRS §23G-16.5.