

ACT 114

H.B. NO. 2134

A Bill for an Act Relating to Violation of Privacy.

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

SECTION 1. Section 711-1110.9, Hawaii Revised Statutes, is amended to read as follows:

“§711-1110.9 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:

- (a) The person intentionally or knowingly installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place; or
- (b) The person knowingly discloses or threatens to disclose an image or video of another identifiable person either in the nude, as defined in section 712-1210, or engaging in sexual conduct, as defined in section 712-1210, without the consent of the depicted person, with intent to harm substantially the depicted person with respect to that person’s health, safety, business, calling, career, education, financial condition, reputation, or personal relationships[;] or as an act of revenge or retribution; provided that:
 - (i) This paragraph shall not apply to images or videos of the depicted person made:
 - (A) When the person was voluntarily nude in public or voluntarily engaging in sexual conduct in public; or
 - (B) Pursuant to a voluntary commercial transaction; and
 - (ii) Nothing in this paragraph shall be construed to impose liability on a provider of “electronic communication service” or “remote computing service” as those terms are defined in section 803-41, for an image or video disclosed through the electronic communication service or remote computing service by another person.

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(2) Violation of privacy in the first degree is a class C felony. In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this section.

(3) Any recording or image made or disclosed in violation of this section and not destroyed pursuant to subsection (2) shall be sealed and remain confidential.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2018.

(Approved July 5, 2018.)