

ACT 184

H.B. NO. 1107

A Bill for an Act Relating to Computer Crime.

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

SECTION 1. The legislature finds that bullying, cyberbullying, and harassment are serious issues that hinder student well-being and achievement, especially when the targets are vulnerable youth.

The legislature recognizes that the department of education has recently implemented comprehensive efforts to address bullying, cyberbullying, and harassment in public schools, including the adoption of amended administrative rules that, among other things, provide expanded definitions of and complaint procedures for these forms of student misconduct.

However, the legislature also finds that the transition to online classroom environments as a result of the coronavirus disease 2019 pandemic has exacerbated the problems of bullying, cyberbullying, and harassment of vulnerable youth. Children who use devices such as computers, tablets, and smartphones, including children who engage in bullying conduct, often use devices that were purchased or furnished by parents or other adults in the household. Some parents and guardians do not adequately monitor the online activities of their minor children, and this lack of monitoring serves to enable the minor child's bullying conduct. To the extent that bullying, cyberbullying, and harassment are prosecuted under existing penal code offenses that address harassing conduct based on electronic communication, the intent of this Act is to incentivize parents and guardians to better ensure that their minor children refrain from using electronic devices to perpetrate these acts.

Accordingly, the purpose of this Act is to:

- (1) Add aggravated harassment by stalking to the list of offenses upon which the offense of use of a computer in the commission of a separate crime may be based; and

- (2) Provide the court with the discretion to require the forfeiture of property used in computer crimes if the perpetrator was a minor, regardless of whether the minor owned the property.

SECTION 2. Section 708-893, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of use of a computer in the commission of a separate crime if the person knowingly uses a computer to identify, select, solicit, persuade, coerce, entice, induce, procure, pursue, surveil, contact, harass, annoy, or alarm the victim or intended victim of the following offenses:

- (a) Section 707-726, relating to custodial interference in the first degree;
- (b) Section 707-727, relating to custodial interference in the second degree;
- (c) Section 707-731, relating to sexual assault in the second degree;
- (d) Section 707-732, relating to sexual assault in the third degree;
- (e) Section 707-733, relating to sexual assault in the fourth degree;
- (f) Section 707-751, relating to promoting child abuse in the second degree;
- (g) Section 711-1106, relating to harassment;
- (h) Section 711-1106.4, relating to aggravated harassment by stalking;
- ~~(h)~~ (i) Section 711-1106.5, relating to harassment by stalking; or
- ~~(i)~~ (j) Section 712-1215, relating to promoting pornography for minors.”

SECTION 3. Section 708-894, Hawaii Revised Statutes, is amended to read as follows:

~~“[§708-894] Forfeiture of property used in computer crimes. Any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit an offense under this part, or which facilitated or assisted such activity, shall be forfeited subject to the requirements of chapter 712A[-]; provided that the court shall have the discretion to require forfeiture of the property pursuant to this section if the perpetrator of the offense was a person under the age of eighteen, regardless of whether the person owned the property.”~~

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 6, 2021.)