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# A BILL FOR AN ACT

RELATING TO VIOLATION OF PRIVACY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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

3 **"§711-1110.9 Violation of privacy in the first degree.**

4 (1) A person commits the offense of violation of privacy in the  
5 first degree if, except in the execution of a public duty or as  
6 authorized by law:

7 (a) The person intentionally or knowingly installs or  
8 uses, or both, in any private place, without consent  
9 of the person or persons entitled to privacy therein,  
10 any device for observing, recording, amplifying, or  
11 broadcasting another person in a stage of undress or  
12 sexual activity in that place; or

13 (b) The person knowingly discloses or threatens to  
14 disclose an image or video of another identifiable  
15 person either in the nude, as defined in section 712-  
16 1210, or engaging in sexual conduct, as defined in  
17 section 712-1210, without the consent of the depicted



1 person, with intent to harm substantially the depicted  
2 person with respect to that person's health, safety,  
3 business, calling, career, education, financial  
4 condition, reputation, or personal relationships[+] or  
5 as an act of revenge or retribution; provided that:

6 (i) This paragraph shall not apply to images or  
7 videos of the depicted person made:

8 (A) When the person was voluntarily nude in  
9 public or voluntarily engaging in sexual  
10 conduct in public[+], unless the disclosure  
11 was an act of revenge or retribution; or

12 (B) Pursuant to a voluntary commercial  
13 transaction; and

14 (ii) Nothing in this paragraph shall be construed to  
15 impose liability on a provider of "electronic  
16 communication service" or "remote computing  
17 service" as those terms are defined in section  
18 803-41, for an image or video disclosed through  
19 the electronic communication service or remote  
20 computing service by another person.

21 (2) Violation of privacy in the first degree is a [class]:



- 1        (a) Class B felony if the:
- 2                (i) Person or any of the persons entitled to
- 3                privacy under subsection (1)(a); or
- 4                (ii) Depicted person under subsection (1)(b),
- 5                is a minor under the age of eighteen; or
- 6        (b) Class C felony[-] if the:
- 7                (i) Person or persons entitled to privacy under
- 8                subsection (1)(a); or
- 9                (ii) Depicted person under subsection (1)(b),
- 10               is eighteen years of age or older.

11 In addition to any penalties the court may impose, the court may  
 12 order the destruction of any recording made in violation of this  
 13 section.

14        (3) Any recording or image made or disclosed in violation  
 15 of this section shall be sealed and remain confidential."

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

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

21        SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Violation of Privacy in the First Degree; Revenge or Retribution; Minors

**Description:**

Amends the offense of violation of privacy in the first degree to prohibit threats or acts to disclose an image or video. Enhances the penalty if the person or persons entitled to privacy or the depicted person is a minor. Requires that any recording or image made or disclosed be sealed and remain confidential. (HB2134 HD1)

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