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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

STATE OF HAWAI'I

v.

MICHAEL GARCIA,

Defendant.

CASE NO. 1CPC-23-0000217

COUNT 1:

PROMOTING CHILD ABUSE IN THE  
FIRST DEGREE  
(§707-750(1)(a) HRS)

COUNT 2:

PROMOTING CHILD ABUSE IN THE  
FIRST DEGREE  
(§707-750(1)(a) HRS)

COUNT 3:

PROMOTING CHILD ABUSE IN THE  
FIRST DEGREE  
(§707-750(1)(a) HRS)

COUNT 4:

PROMOTING CHILD ABUSE IN THE  
THIRD DEGREE  
(§707-752(1)(a) HRS)

COUNT 5:

PROMOTING CHILD ABUSE IN THE  
THIRD DEGREE  
(§707-752(1)(a) HRS)

COUNT 6:

PROMOTING CHILD ABUSE IN THE  
THIRD DEGREE  
(§707-752(1)(a) HRS)

COUNT 7:

VIOLATION OF PRIVACY IN THE  
FIRST DEGREE

(§711-1110.9(1)(a) HRS)

COUNT 8:

VIOLATION OF PRIVACY IN THE  
FIRST DEGREE

(§711-1110.9(1)(a) HRS)

COUNT 9:

FAILURE TO AFFIX INFORMATION  
DISCLOSING LOCATION OF AGE  
VERIFICATION RECORDS OF SEXUAL  
PERFORMERS

(§ 712-1219 HRS)

COUNT 10:

FAILURE TO AFFIX INFORMATION  
DISCLOSING LOCATION OF AGE  
VERIFICATION RECORDS OF SEXUAL  
PERFORMERS

(§712-1219 HRS)

COUNT 11:

FAILURE TO AFFIX INFORMATION  
DISCLOSING LOCATION OF AGE  
VERIFICATION RECORDS OF SEXUAL  
PERFORMERS

(§712-1219 HRS)

COUNT 12:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 13:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 14:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 15:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 16:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 17:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 18:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 19:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 20:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 21:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 22:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 23:

SEXUAL ASSAULT IN THE THIRD  
DEGREE

(§707-732(1)(b) HRS)

COUNT 24:

ATTEMPTED SEXUAL ASSAULT IN  
THE FIRST DEGREE

(§705-500 and §707-730(1)(b) HRS)

COUNT 25:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 26:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 27:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 28:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 29:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 30:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 31:

SEXUAL ASSAULT IN THE FIRST  
DEGREE

(§707-730(1)(b) HRS)

COUNT 32:

SEXUAL ASSAULT IN THE THIRD  
DEGREE

(§707-732(1)(b) HRS)

INDICTMENT

**INDICTMENT**

The Grand Jury charges:

COUNT 1: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, knowing or having reason to know its character and content, did produce or participate in the preparation of child pornography, to wit, a pornographic visual representation of a minor engaging in oral-genital contact and/or sexual penetration, thereby committing the offense of Promoting Child Abuse in the First Degree, in violation of Section 707-750(1)(a) of the Hawai'i Revised Statutes.

Pursuant to Section 707-750(3) of the Hawai'i Revised Statutes, the fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 2: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, knowing or having reason to know its character and content, did produce or participate in the preparation of child pornography, to wit, a pornographic visual representation of a minor engaging in oral-genital contact, thereby committing the offense of Promoting Child Abuse in the First Degree, in violation of Section 707-750(1)(a) of the Hawai'i Revised Statutes.

Pursuant to Section 707-750(3) of the Hawai'i Revised Statutes, the fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 3: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, knowing or having reason to know its character and content, did produce or participate in the preparation of child pornography, to wit, a pornographic visual representation of a minor engaging in oral-genital contact and/or sexual penetration, thereby committing the offense of Promoting Child Abuse in the First Degree, in violation of Section 707-750(1)(a) of the Hawai'i Revised Statutes.

Pursuant to Section 707-750(3) of the Hawai'i Revised Statutes, the fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 4: On or about September 23, 2022, to and including December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, knowing or having reason to know its character and content, did possess child pornography, to wit, a pornographic visual representation of a minor engaging in oral-genital contact and/or sexual penetration, thereby committing the offense of Promoting Child Abuse in the Third Degree, in violation of Section 707-752(1)(a) of the Hawai'i Revised Statutes. In committing the offense of Promoting Child

Abuse in the Third Degree, in violation of Section 707-752(1)(a) of the Hawai'i Revised Statutes, MICHAEL GARCIA acted pursuant to a continuing course of conduct.

Pursuant to Section 707-752(3) of the Hawai'i Revised Statutes, the fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 5: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, knowing or having reason to know its character and content, did possess child pornography, to wit, a pornographic visual representation of a minor engaging in oral-genital contact, thereby committing the offense of Promoting Child Abuse in the Third Degree, in violation of Section 707-752(1)(a) of the Hawai'i Revised Statutes. In committing the offense of Promoting Child Abuse in the Third Degree, in violation of Section 707-752(1)(a) of the Hawai'i Revised Statutes, MICHAEL GARCIA acted pursuant to a continuing course of conduct.

Pursuant to Section 707-752(3) of the Hawai'i Revised Statutes, the fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged

in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 6: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, knowing or having reason to know its character and content, did possess child pornography, to wit, a pornographic visual representation of a minor engaging in oral-genital contact and/or sexual penetration, thereby committing the offense of Promoting Child Abuse in the Third Degree, in violation of Section 707-752(1)(a) of the Hawai'i Revised Statutes. In committing the offense of Promoting Child Abuse in the Third Degree, in violation of Section 707-752(1)(a) of the Hawai'i Revised Statutes, MICHAEL GARCIA acted pursuant to a continuing course of conduct.

Pursuant to Section 707-752(3) of the Hawai'i Revised Statutes, the fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 7: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai‘i, neither in the execution of a public duty nor as authorized by law, MICHAEL GARCIA did intentionally or knowingly install or use, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, and/or broadcasting S.G. in a stage of undress or sexual activity in that place, thereby committing the offense of Violation of Privacy in the First Degree, in violation of Section 711-1110.9(1)(a) of the Hawai‘i Revised Statutes.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 8: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai‘i, neither in the execution of a public duty nor as authorized by law, MICHAEL GARCIA did intentionally or knowingly install or use, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, and/or broadcasting S.G. in a stage of undress or sexual activity in that place, thereby committing

the offense of Violation of Privacy in the First Degree, in violation of Section 711-1110.9(1)(a) of the Hawai'i Revised Statutes.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 9: On or about September 23, 2022, to and including December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA knowingly produced a pornographic film, videotape, computer image or other matter that contained one or more pornographic visual depictions made after June 30, 2002, of sexual conduct, to wit, a pornographic visual representation of a minor engaging in physical contact with a person's unclothed genitals and/or pubic area, and knowingly failed to affix to each copy a statement describing where may be located any age verification records of sexual performers as required by Section 712-1218 of the Hawai'i Revised Statutes, with respect to all performers depicted in that copy of the matter, including the current address and telephone number of the custodian of those records, thereby committing the offense of Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers, in violation of Section 712-1219 of the Hawai'i Revised Statutes. In committing the offense of Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers, in violation of Section 712-129 of the Hawai'i Revised Statutes, MICHAEL GARCIA acted pursuant to a continuing course of conduct.

Pursuant to Section 712-1218 of the Hawai'i Revised Statutes, a person commits the offense of failure to maintain age verification records of sexual performers if the person knowingly produces any pornographic performance, book, magazine, periodical, film, videotape, computer image, or other matter that contains one or more pornographic visual depictions made after June 30, 2002, of sexual conduct and:

- (a) Knowingly fails to create and maintain age verification records for each sexual performer;
- (b) Knowingly makes or causes to be made any false entry into the age verification records of sexual performers required by this section; or
- (c) Knowingly fails to produce the age verification records of sexual performers required by this section, upon request by a law enforcement officer for the purpose of verifying the age of a sexual performer.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 10: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA knowingly produced a pornographic film, videotape, computer image or other matter that contained one or more pornographic visual depictions made after June 30, 2002, of sexual conduct, to wit, a pornographic visual representation of a minor engaging in physical contact with a person's unclothed genitals and/or pubic area, and knowingly failed to affix to each copy a statement describing where may be located any age verification records of

sexual performers as required by Section 712-1218 of the Hawai‘i Revised Statutes, with respect to all performers depicted in that copy of the matter, including the current address and telephone number of the custodian of those records, thereby committing the offense of Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers, in violation of Section 712-1219 of the Hawai‘i Revised Statutes. In committing the offense of Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers, in violation of Section 712-129 of the Hawai‘i Revised Statutes, MICHAEL GARCIA acted pursuant to a continuing course of conduct.

Pursuant to Section 712-1218 of the Hawai‘i Revised Statutes, a person commits the offense of failure to maintain age verification records of sexual performers if the person knowingly produces any pornographic performance, book, magazine, periodical, film, videotape, computer image, or other matter that contains one or more pornographic visual depictions made after June 30, 2002, of sexual conduct and:

- (a) Knowingly fails to create and maintain age verification records for each sexual performer;
- (b) Knowingly makes or causes to be made any false entry into the age verification records of sexual performers required by this section; or
- (c) Knowingly fails to produce the age verification records of sexual performers required by this section, upon request by a law enforcement officer for the purpose of verifying the age of a sexual performer.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or

more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 11: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA knowingly produced a pornographic film, videotape, computer image or other matter that contained one or more pornographic visual depictions made after June 30, 2002, of sexual conduct, to wit, a pornographic visual representation of a minor engaging in physical contact with a person's unclothed genitals and/or pubic area, and knowingly failed to affix to each copy a statement describing where may be located any age verification records of sexual performers as required by Section 712-1218 of the Hawai'i Revised Statutes, with respect to all performers depicted in that copy of the matter, including the current address and telephone number of the custodian of those records, thereby committing the offense of Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers, in violation of Section 712-1219 of the Hawai'i Revised Statutes. In committing the offense of Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers, in violation of Section 712-129 of the Hawai'i Revised Statutes, MICHAEL GARCIA acted pursuant to a continuing course of conduct.

Pursuant to Section 712-1218 of the Hawai'i Revised Statutes, a person commits the offense of failure to maintain age verification records of sexual performers if the person knowingly produces any pornographic performance, book, magazine, periodical, film, videotape, computer image, or other matter that contains one or more pornographic visual depictions made after June 30, 2002, of sexual conduct and:

- (a) Knowingly fails to create and maintain age verification records for each sexual performer;

(b) Knowingly makes or causes to be made any false entry into the age verification records of sexual performers required by this section; or

(c) Knowingly fails to produce the age verification records of sexual performers required by this section, upon request by a law enforcement officer for the purpose of verifying the age of a sexual performer.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 12: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 13: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai‘i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai‘i Revised Statutes.

Pursuant to Section 707-700 of the Hawai‘i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 14: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai‘i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai‘i Revised Statutes.

Pursuant to Section 707-700 of the Hawai‘i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the

Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 15: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 16: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 17: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 18: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who

was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 19: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 20: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 21: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the

Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 22: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 23: On or about September 23, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly cause S.G., a person who was less than fourteen years old, to have sexual contact with MICHAEL GARCIA, by directing S.G. to place her hand on his penis, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 24: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did intentionally engage in conduct which, under the circumstances as he believed them to be, constituted a substantial step in a course of conduct intended to culminate in his commission of the crime of Sexual Assault in the First Degree against S.G., a person who was less than fourteen years old, by attempting to insert his penis into S.G.'s mouth, thereby committing the offense of Attempted Sexual Assault in the First Degree, in violation of Sections 705-500 and 707-730(1)(a) of the Hawai'i Revised Statutes.

A person commits the offense of Sexual Assault in the First Degree if he knowingly engages in sexual penetration with a person who is less than fourteen years old.

Pursuant to Section 705-500(3), conduct shall not be considered a substantial step in a criminal attempt unless it is strongly corroborative of the defendant's criminal intent.

Pursuant to Section 705-531 of the Hawai'i Revised Statutes, a person may not be convicted of more than one offense defined as an inchoate crime for conduct designed to commit or culminate in the commission of the same substantive crime.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or

more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 25: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai‘i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai‘i Revised Statutes.

Pursuant to Section 707-700 of the Hawai‘i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 26: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai‘i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai‘i Revised Statutes.

Pursuant to Section 707-700 of the Hawai‘i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 27: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 28: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the

offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 29: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 30: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai'i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 31: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai'i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly engage in sexual penetration with S.G., a person who was less than fourteen years old, by inserting his penis into her mouth, thereby committing the offense of Sexual Assault in the First Degree, in violation of Section 707-730(1)(b) of the Hawai'i Revised Statutes.

Pursuant to Section 707-700 of the Hawai'i Revised Statutes, each act of sexual penetration shall constitute a separate offense.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the

Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

COUNT 32: On or about December 3, 2022, in the City and County of Honolulu, State of Hawai‘i, MICHAEL GARCIA, being the parent or guardian or any other person having legal or physical custody of S.G., did knowingly cause S.G., a person who was less than fourteen years old, to have sexual contact with MICHAEL GARCIA, by directing S.G. to place her hand on his penis, thereby committing the offense of Sexual Assault in the Third Degree, in violation of Section 707-732(1)(b) of the Hawai‘i Revised Statutes.

If convicted of this offense or any included felony offense, MICHAEL GARCIA may be subject to sentencing in accordance with Section 706-661 and Section 706-662(4)(a) of the Hawai‘i Revised Statutes where he is a multiple offender in that he is being sentenced for two or more felonies, and an extended term of imprisonment is necessary for the protection of the public.

**Definitions That Apply to Counts 1 -3.** For purposes of Counts 1-3, the following definitions shall apply:

“Child pornography,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:

- (a) The pornographic production of such visual representation involves the use of a minor engaging in sexual conduct; or
- (b) The pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

“Computer,” as defined in Section 707-750(2) and Section 708-890 of the Hawai‘i Revised Statutes, means any electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes all computer equipment connected or related to such a device in a computer system or computer network, but shall not include an automated typewriter or typesetter, a portable hand-held calculator, or other similar device.

“Computer equipment,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means any equipment or devices, including all input, output, processing, storage, software, or communications facilities, intended to interface with the computer.

“Computer network,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means two or more computers or computer systems, interconnected by communication lines, including microwave, electronic, or any other form of communication.

“Computer program” or “software,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means a set of computer-readable instructions or statements and related data that, when executed by a computer system, causes the computer system or the computer network to which it is connected to perform computer services.

“Computer services,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, includes but is not limited to the use of a computer system, computer network, computer program, data prepared for computer use, and data contained within a computer system or computer network.

“Computer system,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means a set of interconnected computer equipment intended to operate as a cohesive system.

“Data,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means information, facts, concepts, software, or instructions prepared for use in a computer, computer system, or computer network.

“Deviate sexual intercourse,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

“Lascivious,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, 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,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, 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,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, means any person less than eighteen years old.

“Performance,” as defined in Section 750(2) of the Hawai‘i Revised Statutes, means any play, motion picture film, dance, or other exhibition performed before any audience.

“Person,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means a human being who has been born and is alive.

“Pornographic,” as defined in Section 707-750(2) and Section 712-1210 of the Hawai‘i Revised Statutes, means any material or performance if all of the following coalesce:

- (a) The average person, applying contemporary community standards would find that, taken as a whole, it appeals to the prurient interest.
- (b) It depicts or describes sexual conduct in a patently offensive way.
- (c) Taken as a whole, it lacks serious literary, artistic, political, or scientific merit.

“Produces,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, means to produce, direct, manufacture, issue, publish, or advertise.

“Sadomasochistic abuse,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

“Sexual conduct,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, means actual or simulated sexual intercourse, including genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, masturbation, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

“Sexual penetration,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means:

- (1) Vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person’s body or of any object into the genital or anal opening of another person’s body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, “genital opening” includes the anterior surface of the vulva or labia majora; or
- (2) Cunnilingus or anilingus, whether or not actual penetration has occurred.

“Visual representation,” as defined in Section 707-750(2) of the Hawai‘i Revised Statutes, refers to, but is not limited to, undeveloped film and videotape and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

**Definitions That Apply to Counts 4-6.** For purposes of Counts 4-6, the following definitions shall apply:

“Child pornography,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:

- (a) The pornographic production of such visual representation involves the use of a minor engaging in sexual conduct; or

- (b) The pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

“Computer,” as defined in Section 707-752(2) and Section 708-890 of the Hawai‘i Revised Statutes, means any electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes all computer equipment connected or related to such a device in a computer system or computer network, but shall not include an automated typewriter or typesetter, a portable hand-held calculator, or other similar device.

“Computer equipment,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means any equipment or devices, including all input, output, processing, storage, software, or communications facilities, intended to interface with the computer.

“Computer network,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means two or more computers or computer systems, interconnected by communication lines, including microwave, electronic, or any other form of communication.

“Computer program” or “software,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means a set of computer-readable instructions or statements and related data that, when executed by a computer system, causes the computer system or the computer network to which it is connected to perform computer services.

“Computer services,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, includes but is not limited to the use of a computer system, computer network, computer program, data prepared for computer use, and data contained within a computer system or computer network.

“Computer system,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means a set of interconnected computer equipment intended to operate as a cohesive system.

“Data,” as defined in Section 708-890 of the Hawai‘i Revised Statutes, means information, facts, concepts, software, or instructions prepared for use in a computer, computer system, or computer network.

“Deviate sexual intercourse,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

“Lascivious,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, 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,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, 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,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, means any person less than eighteen years old.

“Performance,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means any play, motion picture film, dance, or other exhibition performed before an audience.

“Person,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means a human being who has been born and is alive.

“Pornographic,” as defined in Section 707-752(2) and Section 712-1210 of the Hawai‘i Revised Statutes, means any material or performance if all of the following coalesce:

- (a) The average person, applying contemporary community standards would find that, taken as a whole, it appeals to the prurient interest.
- (b) It depicts or describes sexual conduct in a patently offensive way.
- (c) Taken as a whole, it lacks serious literary, artistic, political, or scientific merit.

“Sadomasochistic abuse,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

“Sexual conduct,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, means actual or simulated sexual intercourse, including genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, masturbation, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

“Sexual penetration,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means:

- (1) Vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person’s body or of any object into the genital or anal opening of another person’s body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, “genital opening” includes the anterior surface of the vulva or labia majora; or
- (2) Cunnilingus or anilingus, whether or not actual penetration has occurred.

“Visual representation,” as defined in Section 707-752(2) of the Hawai‘i Revised Statutes, refers to, but is not limited to, undeveloped film and videotape and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

**Definitions That Apply to Counts 7-8.** For purposes of Counts 7-8, the following definitions shall apply:

“Private place,” as defined in Section 711-1100 of the Hawai‘i Revised Statutes, means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Record,” as defined in Section 711-1100 of the Hawai‘i Revised Statutes, means to videotape, film, photograph, or archive electronically or digitally.

**Definitions That Apply to Counts 9-11.** For purposes of Counts 9-11, the following definitions shall apply:

“Age verification records of sexual performers,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means individually identifiable records pertaining to every sexual performer portrayed in a visual depiction of sexual conduct, which include:

- (1) Each performer’s name and date of birth, as ascertained by the producer’s personal examination of a performer’s valid driver’s license, official state identification card, or passport;
- (2) A certified copy of each performer’s valid driver’s license, official state identification card, or passport; and
- (3) Any name ever used by each performer including, but not limited to, maiden name, aliases, nicknames, stage names, or professional names.

“Community standards,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means the standards of the State.

“Material,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, 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, drawings, sculptures, and tape or wire recordings.

“Minor,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means any person less than sixteen years old.

“Performance,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means any play, motion picture film, dance, or other exhibition performed before an audience.

“Pornographic,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means any material or performance if all of the following coalesce:

- (a) The average person, applying contemporary community standards would find that, taken as a whole, it appeals to the prurient interest.
- (b) It depicts or describes sexual conduct in a patently offensive way.
- (c) Taken as a whole, it lacks serious literary, artistic, political, or scientific merit.

“Produces,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means to manufacture or publish any pornographic performance, book, magazine, periodical, film, videotape, computer image, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity that

does not involve hiring, contracting for, managing, or otherwise arranging for the participation of the performers depicted.

“Sexual conduct,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, means acts of masturbation, bestiality, sexual intercourse or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.

“Sexual performer,” as defined in Section 712-1210 of the Hawai‘i Revised Statutes, includes any person portrayed in a pornographic visual depiction engaging in, or assisting another person to engage in, sexual conduct.

**Definitions That Apply to Counts 12-32.** For purposes of Counts 12-32, the following definitions shall apply:

“Deviate sexual intercourse,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means any act of sexual gratification between a person and animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

“Person,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means a human being who has been born and is alive.


“Sexual contact,” as defined in Section 707-700 of the Hawai‘i Revised Statutes, means any touching, other than acts of “sexual penetration,” of the sexual or other intimate parts of another, or of the sexual or other intimate parts of the act by another, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.


“Sexual penetration,” as defined in Section 707-700 of the Hawai‘i Revised Statutes means:

(1) Vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person’s body or of any object into the genital or anal opening of another person’s body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, “genital opening” includes the anterior surface of the vulva or labia majora; or

(2) Cunnilingus or anilingus, whether or not actual penetration has occurred.

A True Bill found this day: 17 February 2023

  
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Daniel A.J. Hugo  
Deputy Prosecuting Attorney  
City and County of Honolulu

  
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Foreperson of the Grand Jury