
A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. The purpose of this Act is to hold a
2 perpetrator strictly liable with respect to the attendant
3 circumstance of the victim's age in cases involving sexual
4 exploitation of a minor or promoting prostitution in the first
5 degree involving a minor. Specifically, this Act:

6 (1) Amends the existing criminal statutes, specifically
7 those related to kidnapping, extortion, and promoting
8 prostitution; and

9 (2) Creates a new offense of sexual exploitation of a
10 minor.

11 SECTION 2. Chapter 707, Hawaii Revised Statutes, is
12 amended by adding to part VI a new section to be appropriately
13 designated and to read as follows:

14 "§707- Sexual exploitation of a minor. (1) A person
15 commits the offense of sexual exploitation of a minor if the
16 person knowingly or recklessly:



- 1 (a) Causes, entices, persuades, induces, or otherwise aids
2 a minor to engage in activity as an erotic or nude
3 massager or exotic or nude dancer;
- 4 (b) Engages in conduct designed to institute, aid, or
5 facilitate an act or enterprise whereby a minor
6 engages in activity as an erotic or nude massager or
7 exotic or nude dancer;
- 8 (c) Accepts or receives money or other property pursuant
9 to an agreement or understanding whereby the person
10 participates or is to participate in the proceeds
11 resulting from a minor engaging in activity as an
12 erotic or nude massager or exotic or nude dancer; or
- 13 (d) Recruits, entices, provides, or obtains a minor
14 knowing that the minor will engage in activity as an
15 erotic or nude massager or exotic or nude dancer.
- 16 (2) In addition to other remedies that may be provided by
17 law, any property used or intended to be used to facilitate the
18 commission of the offense of sexual exploitation of a minor,
19 proceeds derived from that offense, or property acquired or
20 maintained, in whole or in part, with proceeds of that offense
21 may be forfeited to the State subject to the requirements of
22 chapter 712A.



1 (3) Sexual exploitation of a minor is a class B felony."

2 SECTION 3. Section 351-32, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§351-32 Violent crimes.** The crimes to which part III of
5 this chapter applies are the following and no other:

- 6 (1) Murder in the first degree (section 707-701);
- 7 (2) Murder in the second degree (section 707-701.5);
- 8 (3) Manslaughter (section 707-702);
- 9 (4) Negligent homicide in the first degree (section 707-
10 702.5);
- 11 (5) Negligent homicide in the second degree (section 707-
12 703);
- 13 (6) Negligent injury in the first degree (section 707-
14 705);
- 15 (7) Negligent injury in the second degree (section 707-
16 706);
- 17 (8) Assault in the first degree (section 707-710);
- 18 (9) Assault in the second degree (section 707-711);
- 19 (10) Assault in the third degree (section 707-712);
- 20 (11) Kidnapping (section 707-720);
- 21 (12) Sexual assault in the first degree (section 707-730);
- 22 (13) Sexual assault in the second degree (section 707-731);



- 1 (14) Sexual assault in the third degree (section 707-732);
- 2 (15) Sexual assault in the fourth degree (section 707-733);
- 3 (16) Abuse of family [~~+~~]or[~~+~~] household member (section
- 4 709-906); [~~and~~]
- 5 (17) Sexual exploitation of a minor (section 707-);
- 6 (18) Promoting prostitution in the first degree (section
- 7 712-1202); and
- 8 [~~(17)]~~ (19) Terrorism, as defined in Title 18 United States
- 9 Code [~~section] Section 2331.~~"

10 SECTION 4. Section 707-700, Hawaii Revised Statutes, is
 11 amended by adding six new definitions to be appropriately
 12 inserted and to read as follows:

13 "Erotic or nude massager" means a nude person providing
 14 massage services with or without a license.

15 "Exotic or nude dancer" means a person performing, dancing,
 16 or entertaining in the nude and includes patrons participating
 17 in a contest or receiving instruction in nude dancing.

18 "Labor" means work of economic or financial value.

19 "Minor" means any person less than eighteen years of age.

20 "Nude" means unclothed or in attire, including sheer or
 21 see-through attire, so as to expose to view any portion of the



1 pubic hair, anus, cleft of the buttocks, genitals, or any
2 portion of the female breast below the top of the areola.

3 "Services" means a relationship between a person and the
4 actor in which the person performs activities under the
5 supervision of or for the benefit of the actor. Prostitution-
6 related and obscenity-related activities as set forth in chapter
7 712 are forms of "services"."

8 SECTION 5. Section 707-720, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§707-720 Kidnapping.** (1) A person commits the offense
11 of kidnapping if the person intentionally or knowingly restrains
12 another person with intent to:

- 13 (a) Hold that person for ransom or reward;
- 14 (b) Use that person as a shield or hostage;
- 15 (c) Facilitate the commission of a felony or flight
16 thereafter;
- 17 (d) Inflict bodily injury upon that person or subject that
18 person to a sexual offense;
- 19 (e) Terrorize that person or a third person; [~~or~~]
- 20 (f) Interfere with the performance of any governmental or
21 political function[~~-~~]; or



1 (g) Unlawfully obtain the labor or services of that
2 person, regardless of whether related to the
3 collection of a debt.

4 (2) Except as provided in subsection (3), kidnapping is a
5 class A felony.

6 (3) In a prosecution for kidnapping, it is a defense which
7 reduces the offense to a class B felony that the defendant
8 voluntarily released the victim, alive and not suffering from
9 serious or substantial bodily injury, in a safe place prior to
10 trial.

11 (4) Nothing in this section shall be construed to
12 legitimize or legalize prostitution."

13 SECTION 6. Section 707-721, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) A person commits the offense of unlawful imprisonment
16 in the first degree if the person knowingly restrains another
17 person[÷

18 ~~(a) Under]~~ under circumstances which expose the person to
19 the risk of serious bodily injury[÷~~or~~

20 ~~(b) In a condition of involuntary servitude]."~~

21 SECTION 7. Section 707-764, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§707-764 Extortion.** A person commits extortion if the
2 person does any of the following:

3 (1) Obtains, or exerts control over, the property, labor,
4 or services of another with intent to deprive another
5 of property, labor, or services by threatening by word
6 or conduct to:

7 (a) Cause bodily injury in the future to the person
8 threatened or to any other person;

9 (b) Cause damage to property or cause damage, as
10 defined in section 708-890, to a computer,
11 computer system, or computer network;

12 (c) Subject the person threatened or any other person
13 to physical confinement or restraint;

14 (d) Commit a penal offense;

15 (e) Accuse some person of any offense or cause a
16 penal charge to be instituted against some
17 person;

18 (f) Expose a secret or publicize an asserted fact,
19 whether true or false, tending to subject some
20 person to hatred, contempt, or ridicule, or to
21 impair the threatened person's credit or business
22 reputation;



- 1 (g) Reveal any information sought to be concealed by
2 the person threatened or any other person;
- 3 (h) Testify or provide information or withhold
4 testimony or information with respect to
5 another's legal claim or defense;
- 6 (i) Take or withhold action as a public servant, or
7 cause a public servant to take or withhold such
8 action;
- 9 (j) Bring about or continue a strike, boycott, or
10 other similar collective action, to obtain
11 property that is not demanded or received for the
12 benefit of the group that the defendant purports
13 to represent; [~~or~~]
- 14 (k) Destroy, conceal, remove, confiscate, or possess
15 any actual or purported passport, or any other
16 actual or purported government identification
17 document, of another person; or
- 18 [~~(*)~~] (l) Do any other act that would not in itself
19 substantially benefit the defendant but [~~which~~]
20 that is calculated to harm substantially some
21 person with respect to the threatened person's
22 health, safety, business, calling, career,



1 financial condition, reputation, or personal
2 relationships;

3 (2) Intentionally compels or induces another person to
4 engage in conduct from which another has a legal right
5 to abstain or to abstain from conduct in which another
6 has a legal right to engage by threatening by word or
7 conduct to do any of the actions set forth in
8 paragraph (1)(a) through [~~(k)~~] (l); or

9 (3) Makes or finances any extortionate extension of
10 credit, or collects any extension of credit by
11 extortionate means.

12 Nothing in this section shall be construed to legitimize or
13 legalize prostitution."

14 SECTION 8. Section 712-1202, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§712-1202 Promoting prostitution in the first degree.**

17 (1) A person commits the offense of promoting prostitution in
18 the first degree if the person knowingly:

19 (a) Advances prostitution by compelling a person by
20 [~~eriminal coercion~~] force, threat, or intimidation to
21 engage in prostitution, or profits from such coercive
22 conduct by another; or



1 (b) Advances or profits from prostitution of a person less
2 than [~~sixteen~~] eighteen years old.

3 (2) "Threat" as used in this section means any threat
4 proscribed by section 707-764(1).

5 [~~(2)~~] (3) Promoting prostitution in the first degree is a
6 class B felony."

7 SECTION 9. Section 712-1203, Hawaii Revised Statutes, is
8 amended by amending subsection (1) to read as follows:

9 "(1) A person commits the offense of promoting
10 prostitution in the second degree if the person knowingly[~~+~~

11 ~~(a)~~ ~~Advances]~~ advances or profits from prostitution by
12 managing, supervising, controlling, or owning, either
13 alone or in association with others, a house of
14 prostitution or a prostitution business or enterprise
15 involving prostitution activity by two or more
16 prostitutes[~~;- or~~

17 ~~(b) Advances or profits from prostitution of a person less~~
18 ~~than eighteen years old]."~~

19 SECTION 10. Section 842-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "racketeering activity" to
21 read as follows:



1 ""Racketeering activity" means any act or threat involving,
2 but not limited to, murder, kidnapping, sexual exploitation of a
3 minor, gambling, criminal property damage, robbery, bribery,
4 extortion, theft [~~or~~], prostitution, or any dealing in narcotic
5 or other dangerous drugs [~~which~~] that is chargeable as a crime
6 under state law and punishable by imprisonment for more than one
7 year."

8 SECTION 11. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun, before its effective date.

11 SECTION 12. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 13. This Act shall take effect upon its approval.



Report Title:

Minors; Sexual Exploitation

Description:

Creates a new offense of sexual exploitation of a minor. Amends kidnapping, extortion, and prostitution offenses. Eliminates distinction between minors under 18 and minors under 16 for purposes of promoting prostitution. Makes victims of sexual exploitation of a minor and promoting prostitution in the first degree eligible for crime victim compensation. (HB2765 HD1)

