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## A BILL FOR AN ACT

RELATING TO CIVIL PROCEDURE.

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

1           SECTION 1. Chapter 657, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4           "§657-    Limitation of actions; coercion into  
5 prostitution; drug dealer liability; sexual offenses against  
6 minors. (a) Notwithstanding any statutory provision to the  
7 contrary, a claim based on any of the following causes shall be  
8 brought within forty years of the commission of the tort giving  
9 rise to the claim:

- 10           (1) Liability for coercion into prostitution, under  
11           chapter 663J;  
12           (2) Drug dealer liability, under chapter 663E; or  
13           (3) Commission of a sexual offense, as defined in section  
14           846E-1, against a minor.

15           (b) Vicarious liability and respondeat superior may be  
16 alleged and shall be presumed if an employee or agent of an  
17 entity is found to be liable in a claim brought under this  
18 section.



1        (c) All fees and costs shall be awarded to any person or  
2 plaintiff obtaining an award, judgment, or settlement in a claim  
3 brought under this section."

4        SECTION 2. Section 663E-9, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6        "(a) [~~Proof of participation in the illegal drug market~~  
7 ~~in] In an action brought under this chapter [shall be shown by~~  
8 ~~clear and convincing evidence. Except as otherwise provided in~~  
9 ~~this chapter, other], all elements of the cause of action,~~  
10 including proof of participation in the illegal drug market,  
11 shall be shown by a preponderance of the evidence."

12        SECTION 3. Section 663E-4, Hawaii Revised Statutes, is  
13 repealed.

14        [~~§663E-4] ~~Third party cases. Notwithstanding any other~~  
15 ~~law to the contrary, no person shall be liable under this~~  
16 ~~chapter under civil principles of vicarious liability."~~]~~

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

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 Statutory material to be repealed is bracketed  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



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

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INTRODUCED BY: Paul Rhoads

JAN 21 2009



**Report Title:**

Civil Procedure; Limitation of Actions

**Description:**

Extends the time within which a claim must be brought for coercion into prostitution, drug dealer liability, or sexual offenses against minors. Amends standard of proof in claims for drug dealer liability. Presumes vicarious liability and respondeat superior for an employee or agent.

