
A BILL FOR AN ACT

RELATING TO HUMAN TRAFFICKING.

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

1 SECTION 1. Chapter 707, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART VIII. HUMAN TRAFFICKING**

5 **§707- Definitions.** For the purposes of this part:

6 "Advance" means knowingly causing or aiding a person to
7 commit human trafficking or sexual human trafficking by:

- 8 (a) Procuring or soliciting patrons for commercial sex acts
9 to be performed by victims of human trafficking or
10 sexual human trafficking;
- 11 (b) Providing trafficked persons for the purpose of
12 performing commercial sex acts;
- 13 (c) Permitting a premises, either owned by a person or
14 under that person's control to be regularly used for
15 commercial sex acts performed by victims of human
16 trafficking;
- 17 (d) Managing, supervising, controlling or owning, either
18 alone or in association with others, a business or



1 enterprise with the intent to profit from human
2 trafficking or sexual human trafficking; or
3 (e) Engaging in any other conduct designed to institute,
4 aid, or facilitate an act or enterprise of human
5 trafficking or sexual human trafficking.

6 "Commercial sex act" means any sexual contact or sexual
7 penetration, as defined by 707-700, on account of which anything
8 of value is given to or received by any person.

9 "Forced labor or services" means labor or services that are
10 performed or provided by a person and are obtained or maintained
11 through fraud or any of the means listed in subdivision 10
12 below.

13 "Fraud" means making material false statements,
14 misstatements, or omissions to induce or maintain the person to
15 engage or continue to engage in commercial sex acts.

16 "Intent to profit" means the intent to obtain monetary
17 gain.

18 "Maintain" means to secure continued performance of the
19 commercial sex acts or forced labor or services regardless of
20 any initial agreement on the part of the trafficked person to
21 perform such commercial sex acts or labor or services.

22 "Minor" means any person less than eighteen years old.



1 "Transport" or "transportation" means to move any distance,
2 however slight, and shall not require proof of any specific
3 minimum distance.

4 **§707- Human trafficking in the first degree.** (1) a
5 person commits the offense of human trafficking in the first
6 degree if the person recruits, harbors, transports, provides or
7 obtains another person and deprives or violates the personal
8 liberty of that other person with the intent to obtain forced
9 labor or services.

10 (2) Except as provided in subsection (3), human
11 trafficking in the first degree is a Class B felony.

12 (3) A violation of this section in which the victim of
13 human trafficking is a minor is a Class A felony.

14 **§707- Sexual human trafficking in the first degree.**

15 (1) A person commits the offense of sexual human trafficking in
16 the first degree if the person recruits, harbors, transports,
17 provides or obtains another person and deprives or violates the
18 personal liberty of that other person for the purpose of a
19 commercial sex act in violation of sections 712-1202, 707-1203,
20 707-1204, 707-730, 707-731, 707-732, and 707-733.

21 (2) A violation of this section is a class A felony.



1 **§707- Sexual human trafficking in the second degree.**

2 (1) a person commits sexual human trafficking in the second
3 degree if the person knowingly advances or obtains monetary gain
4 from sexual human trafficking.

5 (2) A violation of this section is a class B felony.

6 **§707- Civil actions for damages to victims of human**
7 **trafficking.** (1) A victim of human trafficking may bring a

8 civil action for actual damages, compensatory damages, punitive
9 damages, injunctive relief, any combination of those, or any
10 other appropriate relief. A prevailing plaintiff may also be
11 awarded attorney's fees and costs.

12 (2) In addition to the remedies specified herein, in any
13 action under subsection (1), the plaintiff may be awarded up to
14 three times his or her actual damages, or \$10,000, whichever is
15 greater. In addition, punitive damages may also be awarded upon
16 proof of the defendant's malice, oppression, fraud, or duress in
17 committing the act of human trafficking.

18 (3) An action brought pursuant to this section shall be
19 commenced within five years of the date on which the trafficking
20 victim was freed from the trafficking situation, or if the
21 victim was a minor when the act of human trafficking against the



1 victim occurred, within eight years after the date the plaintiff
2 attains the age of majority.

3 (4) If a person entitled to sue is under a disability at
4 the time the cause of action, then the duration of the
5 disability is not part of the time limited for the commencement
6 of the action. Disability will toll the running of the statute
7 of limitations for this action.

8 (a) Disability includes being a minor, insanity,
9 imprisonment, or other incapacity or incompetence;

10 (b) The statute of limitations shall not run against an
11 incompetent or minor plaintiff simply because a
12 guardian ad litem has been appointed. A guardian ad
13 litem's failure to bring a plaintiff's action within
14 the applicable limitation period will not prejudice
15 the plaintiff's right to do so after his or her
16 disability ceases;

17 (c) A defendant may not assert a defense of the statute of
18 limitations when the expiration of the statute due to
19 conduct by the defendant inducing the plaintiff to
20 delay the filing of the action, or due to threats made
21 by the defendant causing duress upon the plaintiff;



1 (d) The suspension of the statute of limitations due to
2 disability, lack of knowledge, or estoppel applies to
3 other related claims arising out of the trafficking
4 situation.

5 (e) The running of the statute of limitations is postponed
6 during the pendency of any criminal proceedings
7 against the victim; and

8 (f) The running of the statute of limitations may be
9 suspended where a person entitled to sue could not
10 have reasonably discovered the cause of action due to
11 circumstances resulting from the trafficked situation,
12 such as psychological trauma, cultural and linguistic
13 isolation, and the inability to access services.

14 (5) A prevailing plaintiff may also be awarded reasonable
15 attorney's fees and litigation costs including expert witness
16 fees and expenses.

17 (6) Any civil action filed under this section shall be
18 stayed during the pendency of any criminal action arising out of
19 the same occurrence in which the claimant is the victim.

20 As used in this section, a "criminal action" includes
21 investigation and prosecution, and is pending until a final
22 adjudication in the trial court, or dismissal."



1 SECTION 2. Section 28-101, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The attorney general shall establish a statewide
4 witness program through which the attorney general may fund or
5 provide for the security and protection of a government witness
6 or a potential government witness in an official proceeding or
7 investigation where the attorney general determines that an
8 offense such as those described in sections 710-1071
9 (intimidating a witness), 710-1072 (tampering with a witness),
10 or 710-1072.2 (retaliating against a witness) is likely to be
11 committed or which involves great public interest. The attorney
12 general may also fund or provide for the security and protection
13 of the immediate family of, or a person otherwise closely
14 associated with, such witness or potential witness if the family
15 or person may also be endangered. In determining whether such
16 security and protection or funds are to be provided, the
17 attorney general shall give greatest priority to official
18 proceedings or investigations involving pending or potential
19 organized crime, racketeering activity, sexual human trafficking
20 or career criminal prosecutions."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred or proceedings that were
3 begun before its effective date.


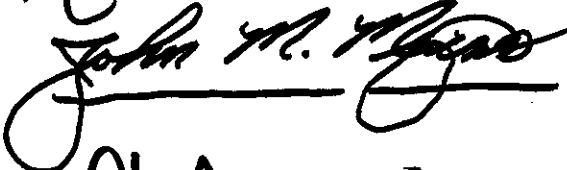
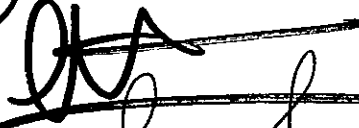
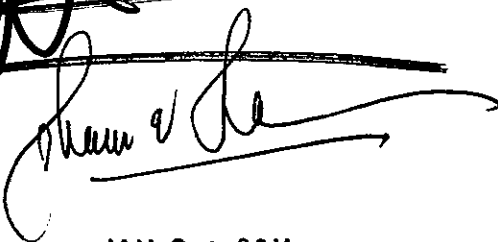
4 SECTION 4. If any provision of this Act or the application
5 thereof to any person or circumstance is held invalid, the
6 invalidity does not affect other provisions or application, and
7 to this end the provisions of this Act are severable.

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

10 SECTION 6. This Act shall take effect on July 1, 2011.

11

INTRODUCED BY:

JAN 24 2011



Report Title:

Human Trafficking Offenses; Crime

Description:

Establishes class A, B, and C felony sexual human trafficking offenses and class A, B, and C felony labor trafficking offenses, and provisions related to prosecution of the offenses. Establishes civil action for damages to victims of human trafficking.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

