
A BILL FOR AN ACT

RELATING TO PROSTITUTION.

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

1 SECTION 1. The purpose of this Act is to authorize a
2 person convicted of committing the offense of prostitution, or
3 any offense related to prostitution, to file a motion to vacate
4 the judgment under certain circumstances and to establish
5 procedures for the motion to vacate.

6 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§712- Prostitution; motion to vacate judgment. (1) A
10 person convicted of committing the offense of prostitution under
11 section 712-1200, loitering for the purpose of engaging in or
12 advancing prostitution under section 712-1206, or street
13 solicitation of prostitution in designated areas under section
14 712-1207, or convicted of a lesser offense when originally
15 charged with a violation of section 712-1200, 712-1206, or 712-
16 1207, may file a motion to vacate the conviction if the person's
17 participation in the offense was the result of the person having
18 been a victim of:



- 1 (a) Promoting prostitution in the first degree under
2 section 712-1202; or
- 3 (b) A severe form of trafficking in persons as defined in
4 title 22 United States Code section 7102(13).
- 5 (2) A motion filed under this section shall:
- 6 (a) Be in writing;
- 7 (b) Be made within a reasonable period of time after the
8 person ceases to be a victim as described in
9 subsection (1), subject to reasonable concerns for the
10 safety of the person, family members of the person, or
11 other victims of the trafficking that may be
12 jeopardized by the bringing of a motion, or for other
13 reasons consistent with the purpose of this section;
14 and
- 15 (c) Describe the evidence and provide copies of any
16 official documents showing that the person is entitled
17 to relief under this section.
- 18 (3) The court shall hold a hearing on a motion filed under
19 this section if the motion satisfies the requirements of
20 subsection (2); provided that the court may dismiss a motion
21 without a hearing if the court finds that the motion fails to
22 assert grounds on which relief may be granted.



1 (4) Official documentation of the person's status as a
2 victim of trafficking or a victim of a severe form of
3 trafficking from a federal, state, or local enforcement agency
4 shall create a presumption that the person's participation in
5 the offense of prostitution, or related offenses described in
6 subsection (1), was a result of having been a victim of
7 trafficking or a victim of a severe form of trafficking, but
8 shall not be required for granting a petition under this
9 subsection.

10 (5) If the court grants a motion filed under this section,
11 the court shall vacate the conviction and dismiss the accusatory
12 pleading, and may take additional action as is appropriate in
13 the circumstances or as justice requires.

14 (6) A person making a motion to vacate pursuant to this
15 section has the burden of proof by a preponderance of the
16 evidence.

17 (7) This section shall not apply to a motion to vacate a
18 conviction under this chapter for:

19 (a) Promoting prostitution; or

20 (b) An offense that involves offering a fee to engage in
21 sexual conduct with another person.



1 (8) For the purposes of this section:
2 "Official documentation" includes a police report, court
3 record, or affidavit generated from a federal, state, or local
4 law enforcement agency.

5 "Victim of trafficking" and "victim of a severe form of
6 trafficking" shall have the same meaning as in title 22 United
7 States Code section 7102."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on January 7, 2059.



Report Title:

Prostitution; Motion to Vacate Judgment

Description:

Authorizes a person convicted of committing the offense of prostitution, or any offense related to prostitution, to file a motion to vacate the judgment under certain circumstances. Establishes procedures for the motion to vacate. Effective January 7, 2059. (HB2235 HD2)

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