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# 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 to  
3 file a motion to discharge the conviction under certain  
4 circumstances and to establish procedures for the motion to  
5 discharge.

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 discharge judgment. (1)

10 A person convicted of committing the offense of prostitution  
11 under section 712-1200, loitering for the purpose of engaging in  
12 or advancing prostitution under section 712-1206, 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  
16 712-1207, may file a motion to discharge the conviction if the  
17 defendant's participation in the offense was the result of the  
18 person having 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 as defined in title 22  
4            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 defendant, family members of the  
11           defendant, or other victims of the trafficking that  
12           may be jeopardized by the bringing of a motion, or for  
13           other reasons consistent with the purpose of this  
14           section; and
- 15        (c) Describe the evidence and provide copies of any  
16           official documents showing that the defendant is  
17           entitled 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 defendant's status as a  
2 victim of trafficking or a victim of a severe form of  
3 trafficking from a federal, state, or local law enforcement  
4 agency shall create a presumption that the person's  
5 participation in the offense of prostitution was a result of  
6 having been a victim of trafficking or a victim of a severe form  
7 of trafficking, but shall not be required for granting a  
8 petition under this subsection.

9       (5) If the court grants a motion filed under this section,  
10 the court shall discharge the conviction and dismiss the  
11 accusatory pleading.

12       (6) A person making a motion to discharge pursuant to this  
13 section has the burden of proof by a preponderance of the  
14 evidence.

15       (7) This section shall not apply to a motion to discharge  
16 a conviction under this chapter for:

17       (a) Promoting prostitution under section 712-1202 or 712-  
18 1203; or

19       (b) A person who agrees to pay or offers a fee to another  
20 person to engage in sexual conduct.

21       (8) For the purposes of this section:



1       "Official documentation" includes a police report, court  
2 record, or affidavit generated from a federal, state, or local  
3 law enforcement agency.

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

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

10       SECTION 4. New statutory material is underscored.

11       SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Prostitution; Motion to Discharge Judgment

**Description:**

Authorizes a person convicted of committing the offense of prostitution to file a motion to discharge the conviction under certain circumstances. Establishes procedures for the motion to discharge. Effective July 1, 2050. (SB2576 HD1)

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

