



1 services, including diversion, crisis intervention, counseling,  
2 and emergency housing services.

3       The purpose of this chapter is to protect a child from  
4 further victimization after the child is discovered to be a  
5 sexually exploited child by ensuring that a child protective  
6 response, not a criminal justice response, is in place. This is  
7 accomplished by granting exemption from certain prosecution to  
8 sexually exploited children and creating programs and services  
9 to meet their specific needs. It should be the priority of the  
10 department of human services to establish family reunification  
11 where possible, without conflict with the child's health and  
12 safety. In determining the need for and capacity for services  
13 that may be provided under this chapter, the department of human  
14 services shall recognize that sexually exploited children have  
15 separate and distinct service needs according to gender, and  
16 appropriate services shall be made available while ensuring that  
17 an appropriate continuum of services exist.

18       **§ -2 Definitions.** As used in this chapter, unless the  
19 context requires otherwise:

20       "Child" means a person who is less than eighteen years of  
21 age.

22       "Department" means the department of human services.



1 "Safe house" means a residential facility operated by an  
2 authorized agency, including a nonprofit agency, with experience  
3 in providing services to sexually exploited children and  
4 approved by the department to provide shelter for sexually  
5 exploited children.

6 "Sexually exploited child" means any person under the age  
7 of eighteen who has been subject to sexual exploitation because  
8 the person:

- 9 (1) Is a victim of the crime of promoting prostitution in  
10 the first degree under section 712-1202;
- 11 (2) Is a victim of the crime of sex trafficking of  
12 children under title 18 United States Code section  
13 1591; or
- 14 (3) Engages in any act under section 712-1200, 712-1206,  
15 712-1207(1)(a), or 712-1207(2)(a), and is granted  
16 exemption pursuant to those sections.

17 **§ -3 Victim services program for sexually exploited**  
18 **children established.** (a) The department shall develop a  
19 victim services program to address the needs of sexually  
20 exploited children and minors at risk of becoming sexually  
21 exploited.

22 (b) The victim services program shall:



- 1           (1) Provide for the child welfare services needs of  
2           sexually exploited children, including but not limited  
3           to services for sexually exploited children at the  
4           time the child is taken into custody by law  
5           enforcement or is identified by the department as a  
6           sexually exploited child for the duration of any legal  
7           or administrative proceeding in which the child is the  
8           complaining witness or the subject child;
- 9           (2) Reunite a child with the child's family, if it is in  
10          the best interest of the child, or place the child in  
11          foster care; and
- 12          (3) Provide appropriate services to a child reasonably  
13          believed to be a sexually exploited child in order to  
14          safeguard the child's welfare.
- 15          (c) The department shall:
- 16          (1) Coordinate with law enforcement agencies, the county  
17          prosecutors' offices, the child and adolescent mental  
18          health division of the department of health, child  
19          protection workers of the department of human  
20          services, and human trafficking service providers to  
21          implement the victim services program established  
22          under this section;



- 1           (2) Provide training and educational materials to its  
2           employees regarding sex trafficking of children and  
3           sexually exploited children;
- 4           (3) Develop a public awareness campaign regarding sex  
5           trafficking of children; and
- 6           (4) Conduct outreach to youth identified as being at risk  
7           for sexual exploitation.

8           For the purposes of this subsection, "human trafficking  
9           service providers" means providers of services who help victims  
10          of human trafficking.

11          (d) The services provided under the victim services  
12          program, whether accessed voluntarily, through a court  
13          proceeding, or through a referral, which may be made by any  
14          person, shall be available to all sexually exploited children.

15          (e) The department shall submit a report to the  
16          legislature, no later than twenty days prior to the convening of  
17          each regular session, that:

- 18          (1) Details the implementation of the victim services  
19          program for sexually exploited children; and
- 20          (2) Includes findings, recommendations, additional  
21          appropriation requests, and proposed legislation, if  
22          any.



1           **§ -4 Temporary care and custody of sexually exploited**  
2 **children.** (a) The department shall develop a protocol for the  
3 interplay between the exemption provisions for sexually  
4 exploited children established by this chapter and other  
5 existing child protection statutes.

6           (b) Sexually exploited children may be taken into custody  
7 by a law enforcement agent and may be:

8           (1) Subject to the protective custody of a law enforcement  
9 agent; provided that the child's family is unable to  
10 provide for the child's health or safety; or

11           (2) Returned to the child's parents; provided that, in the  
12 judgment of the law enforcement agent, it is safe to  
13 do so without jeopardizing the health or safety of the  
14 child."

15           SECTION 2. Section 321-1.3, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17           "(d) The department of health shall submit an annual  
18 report to the legislature no later than twenty days prior to the  
19 convening of each regular session providing the following:

20           (1) An accounting of the receipts of, and expenditures  
21 from, the special fund; and



1           (2) Recommendations on how to improve services for victims  
2           of domestic violence, ~~and~~ sexual assault~~[-]~~,  
3           promoting prostitution in the first degree as defined  
4           by chapter 712-1202, or sex-trafficking as defined in  
5           title 22 United States Code, section 7102, as  
6           amended."

7           SECTION 3. Section 571-11, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§571-11 Jurisdiction; children.** Except as otherwise  
10 provided in this chapter, the court shall have exclusive  
11 original jurisdiction in proceedings:

12           (1) Concerning any person who is alleged to have committed  
13           an act prior to achieving eighteen years of age that  
14           would constitute a violation or attempted violation of  
15           any federal, state, or local law or county ordinance.  
16           Regardless of where the violation occurred,  
17           jurisdiction may be taken by the court of the circuit  
18           where the person resides, is living, or is found, or  
19           in which the offense is alleged to have occurred;

20           (2) Concerning any child living or found within the  
21           circuit:



- 1           (A) Who is neglected as to or deprived of educational
- 2           services because of the failure of any person or
- 3           agency to exercise that degree of care for which
- 4           it is legally responsible;
- 5           (B) Who is beyond the control of the child's parent
- 6           or other custodian or whose behavior is injurious
- 7           to the child's own or others' welfare;
- 8           (C) Who is neither attending school nor receiving
- 9           educational services required by law whether
- 10          through the child's own misbehavior or
- 11          nonattendance or otherwise; or
- 12          (D) Who is in violation of curfew;
- 13          (3) To determine the custody of any child or appoint a
- 14          guardian of any child;
- 15          (4) For the adoption of a person under chapter 578;
- 16          (5) For the termination of parental rights under sections
- 17          571-61 through 571-63;
- 18          (6) For judicial consent to the marriage, employment, or
- 19          enlistment of a child, when consent is required by
- 20          law;





- 1 (7) For the treatment or commitment of a mentally
- 2 defective or mentally ill child, or a child with an
- 3 intellectual disability;
- 4 (8) Under the Interstate Compact on Juveniles under
- 5 chapter 582 or the Interstate Compact for Juveniles
- 6 under chapter 582D;
- 7 (9) For the protection of any child under chapter 587A;
- 8 [and]
- 9 (10) For a change of name as provided in section
- 10 574-5(a)(2)(C) [-]; and
- 11 (11) Concerning any person under eighteen years of age who
- 12 is suspected of or charged with a violation of section
- 13 712-1200, 712-1206, or 712-1207(1)(a) or (2)(a), and
- 14 later granted exemption under section 712-1200(6),
- 15 712-1206(4), or 712-1207(8), respectively. Regardless
- 16 of where the violation occurred, jurisdiction may be
- 17 taken by the court of the circuit where the person
- 18 resides, is living, or is found, or in which the
- 19 offense is alleged to have occurred."

20 SECTION 4. Section 663J-7, Hawaii Revised Statutes, is  
 21 amended to read as follows:



1           "~~+~~§663J-7~~+~~ Statute of limitations. (a) A claim under  
2 this chapter may not be brought against a person more than ~~two~~  
3 six years after an act of promoting prostitution by coercion by  
4 that person.

5           (b) The limitation period provided for in this chapter is  
6 tolled:

7           (1) During the minority of the individual who engages in  
8 prostitution; ~~or~~

9           (2) Any time there is a criminal offense investigation  
10 being actively conducted against the defendant by a  
11 governmental agency or there is a criminal offense  
12 charge, information, or indictment pending against the  
13 defendant~~[-]~~;

14           (3) Until the plaintiff discovers that an act of promoting  
15 prostitution by coercion has occurred and that the  
16 defendant caused, was responsible for, or profited  
17 from the act of promoting prostitution by coercion; or

18           (4) If the plaintiff is a victim of a series of acts of  
19 promoting prostitution by coercion by the same  
20 defendant, until the last act of promoting  
21 prostitution by coercion has occurred.



1        (c) A statute of limitations defense may not be asserted  
2 if the defendant induced or attempted to induce the plaintiff to  
3 delay filing a claim under this chapter."

4        SECTION 5. Section 712-1200, Hawaii Revised Statutes, is  
5 amended to read as follows

6        "**§712-1200 Prostitution.** (1) A person commits the  
7 offense of prostitution if the person:

8        (a) Engages in, or agrees or offers to engage in, sexual  
9        conduct with another person for a fee; or

10       (b) Pays, agrees to pay, or offers to pay a fee to another  
11       to engage in sexual conduct.

12       (2) As used in subsection (1), "sexual conduct" means  
13 "sexual penetration," "deviate sexual intercourse," or "sexual  
14 contact," as those terms are defined in section 707-700.

15       (3) Prostitution is a petty misdemeanor.

16       (4) A person convicted of committing the offense of  
17 prostitution shall be sentenced as follows:

18       (a) For the first offense, when the court has not deferred  
19       further proceedings pursuant to chapter 853, a  
20       mandatory fine of \$500 and the person may be sentenced  
21       to a term of imprisonment of not more than thirty days  
22       or probation; provided that in the event the convicted



1 person defaults in payment of the \$500 fine, and the  
2 default was not contumacious, the court may sentence  
3 the person to perform services for the community as  
4 authorized by section 706-605(1).

5 (b) For any subsequent offense, a mandatory fine of \$500  
6 and a term of imprisonment of thirty days or  
7 probation, without possibility of deferral of further  
8 proceedings pursuant to chapter 853 and without  
9 possibility of suspension of sentence.

10 (c) For the purpose of this subsection, if the court has  
11 deferred further proceedings pursuant to chapter 853,  
12 and notwithstanding any provision of chapter 853 to  
13 the contrary, the defendant shall not be eligible to  
14 apply for expungement pursuant to section 831-3.2  
15 until four years following discharge. A plea  
16 previously entered by a defendant under section 853-1  
17 for a violation of this section shall be considered a  
18 prior offense. When the court has ordered a sentence  
19 of probation, the court may impose as a condition of  
20 probation that the defendant complete a course of  
21 prostitution intervention classes; provided that the



1 court may only impose such condition for one term of  
2 probation.

3 (5) This section shall not apply to any member of a police  
4 department, a sheriff, or a law enforcement officer acting in  
5 the course and scope of duties.

6 (6) If it is determined, after a reasonable detention for  
7 investigative purposes, that a person suspected of or charged  
8 with prostitution was less than eighteen years of age at the  
9 time the offense was allegedly committed, that person shall be  
10 not be prosecuted under this section, and shall be subject to  
11 the safe harbor provisions of chapter . Exemption from  
12 prosecution under this section shall not apply to patrons of  
13 prostitution or persons who procure or solicit patrons for  
14 prostitution."

15 SECTION 6. Section 712-1206, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "~~+~~§712-1206~~+~~ **Loitering for the purpose of engaging in**  
18 **or advancing prostitution.** (1) For the purposes of this  
19 section, "public place" means any street, sidewalk, bridge,  
20 alley or alleyway, plaza, park, driveway, parking lot or  
21 transportation facility or the doorways and entrance ways to any



1 building which fronts on any of the aforesaid places, or a motor  
2 vehicle in or on any such place.

3 (2) Any person who remains or wanders about in a public  
4 place and repeatedly beckons to or repeatedly stops, or  
5 repeatedly attempts to stop, or repeatedly attempts to engage  
6 passers-by in conversation, or repeatedly stops or attempts to  
7 stop motor vehicles, or repeatedly interferes with the free  
8 passage of other persons for the purpose of committing the crime  
9 of prostitution as that term is defined in section 712-1200,  
10 shall be guilty of a violation.

11 (3) Any person who remains or wanders about in a public  
12 place and repeatedly beckons to, or repeatedly stops, or  
13 repeatedly attempts to engage passers-by in conversation, or  
14 repeatedly stops or attempts to stop motor vehicles, or  
15 repeatedly interferes with the free passage of other persons for  
16 the purpose of committing the crime of advancing prostitution as  
17 that term is defined in section 712-1201(1) is guilty of a petty  
18 misdemeanor.

19 (4) If it is determined, after a reasonable detention for  
20 investigative purposes, that a person suspected of or charged  
21 with a violation under subsection (2) was less than eighteen  
22 years of age at the time the offense of loitering for the



1 purpose of engaging in prostitution was allegedly committed,  
 2 that person shall not be prosecuted under this section, and  
 3 shall be subject to the safe harbor provisions of chapter .  
 4 Exemption from prosecution under this section shall not apply to  
 5 patrons of prostitution or persons who procure or solicit  
 6 patrons for prostitution."

7 SECTION 7. Section 712-1207, Hawaii Revised Statutes, is  
 8 amended to read as follows:

9 **"§712-1207 Street solicitation of prostitution; designated**

10 **areas.** (1) It shall be unlawful for any person within the  
 11 boundaries of Waikiki and while on any public property to:

- 12 (a) Offer or agree to engage in sexual conduct with
- 13 another person in return for a fee; or
- 14 (b) Pay, agree to pay, or offer to pay a fee to another
- 15 person to engage in sexual conduct.

16 (2) It shall be unlawful for any person within the  
 17 boundaries of other areas in this State designated by county  
 18 ordinance pursuant to subsection (3), and while on any public  
 19 property to:

- 20 (a) Offer or agree to engage in sexual conduct with
- 21 another person in return for a fee; or



1 (b) Pay, agree to pay, or offer to pay a fee to another  
2 person to engage in sexual conduct.

3 (3) Upon a recommendation of the chief of police of a  
4 county, that county may enact an ordinance that:

5 (a) Designates areas, each no larger than three square  
6 miles, as zones of significant prostitution-related  
7 activity that is detrimental to the health, safety, or  
8 welfare of the general public; or

9 (b) Alters the boundaries of any existing area under  
10 paragraph (a);

11 provided that not more than four areas may be designated within  
12 the State.

13 (4) Notwithstanding any law to the contrary, any person  
14 violating this section shall be guilty of a petty misdemeanor  
15 and shall be sentenced to a mandatory term of thirty days  
16 imprisonment. The term of imprisonment shall be imposed  
17 immediately, regardless of whether the defendant appeals the  
18 conviction, except as provided in subsection (5).

19 (5) As an option to the mandatory term of thirty days  
20 imprisonment, if the court finds the option is warranted based  
21 upon the defendant's record, the court may place the defendant  
22 on probation for a period not to exceed six months, subject to





1 the mandatory condition that the defendant observe geographic  
2 restrictions that prohibit the defendant from entering or  
3 remaining on public property, in Waikiki and other areas in the  
4 State designated by county ordinance during the hours from  
5 6 p.m. to 6 a.m. Upon any violation of the geographic  
6 restrictions by the defendant, the court, after hearing, shall  
7 revoke the defendant's probation and immediately impose the  
8 mandatory thirty-day term of imprisonment. Nothing contained in  
9 this subsection shall be construed as prohibiting the imposition  
10 of stricter geographic restrictions under section 706-624(2)(h).

11 (6) Any person charged under this section may be admitted  
12 to bail, pursuant to section 804-4, subject to the mandatory  
13 condition that the person observe geographic restrictions that  
14 prohibit the defendant from entering or remaining on public  
15 property, in Waikiki and other areas in the State designated by  
16 county ordinance during the hours from 6 p.m. to 6 a.m.  
17 Notwithstanding any other provision of law to the contrary, any  
18 person who violates these bail restrictions shall have the  
19 person's bail revoked after hearing and shall be imprisoned  
20 forthwith. Nothing contained in this subsection shall be  
21 construed as prohibiting the imposition of stricter geographic  
22 restrictions under section 804-7.1.



1           (7) Notwithstanding any other law to the contrary, a  
2 police officer, without warrant, may arrest any person when the  
3 officer has probable cause to believe that the person has  
4 committed a violation of subsection (5) or (6), and the person  
5 shall be detained, without bail, until the hearing under the  
6 appropriate subsection can be held, which hearing shall be held  
7 as soon as reasonably practicable.

8           (8) If it is determined, after a reasonable detention for  
9 investigative purposes, that a person suspected of or charged  
10 with a violation of subsection (1)(a) or (2)(a) was less than  
11 eighteen years of age at the time the violation was allegedly  
12 committed, that person shall not be prosecuted under this  
13 section, and shall be subject to the safe harbor provisions of  
14 chapter . Exemption from prosecution under this section  
15 shall not apply to patrons of prostitution or persons who  
16 procure or solicit patrons for prostitution.

17           ~~[(8)]~~ (9) For purposes of this section:

18           "Area" means any zone within a county that is defined with  
19 specific boundaries and designated as a zone of significant  
20 prostitution by this section or a county ordinance.

21           "Public property" includes any street, highway, road,  
22 sidewalk, alley, lane, bridge, parking lot, park, or other



1 property owned or under the jurisdiction of any governmental  
2 entity or otherwise open to the public.

3 "Sexual conduct" has the same meaning as in section  
4 712-1200(2).

5 "Waikiki" means that area of Oahu bounded by the Ala Wai  
6 canal, the ocean, and Kapahulu avenue.

7 [~~9~~] (10) This section shall apply to all counties;  
8 provided that if a county enacts an ordinance to regulate street  
9 solicitation for prostitution, other than an ordinance  
10 designating an area as a zone of significant prostitution-  
11 related activity, the county ordinance shall supersede this  
12 section and no person shall be convicted under this section in  
13 that county."

14 SECTION 8. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 9. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 10. This Act shall take effect on July 1, 2050.



**Report Title:**

Minors; Prostitution; Family Court; Penal Code

**Description:**

Establishes a new chapter for the safe harbor of sexually exploited children. Expands the scope of the domestic violence and sexual assault special fund annual report to the legislature. Grants the family court exclusive jurisdiction over any person under eighteen who is charged with certain offenses of prostitution. Amends the statute of limitations under the prostitution coercion liability act. Establishes that persons who are under eighteen and suspected of or charged with certain offenses of prostitution shall not be prosecuted, and shall be subject to the provisions of the safe harbor for sexually exploited children chapter. (SB2579 HD1)

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

