

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 re-victimization once they have been 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 to be accomplished by granting exemption from 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 and where it does not conflict with the child's
12 health and safety. In determining the need for and capacity for
13 services that may be provided under this chapter, the department
14 of human services shall recognize that sexually exploited
15 children have separate and distinct service needs according to
16 gender, and appropriate services shall be made available while
17 ensuring that 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 born alive and is less than
21 eighteen years of 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), 712-1207(2)(a), or 712-1209, and
16 granted 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 commercial sexual
21 exploitation.

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 they are taken into custody by law enforcement or
5 are identified by the department as sexually exploited
6 children for the duration of any legal or
7 administrative proceeding in which they are either 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 placed in foster
11 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, child protection workers, and human
19 trafficking service providers to implement the victim
20 services program established under this section;



1 (2) Provide training and educational materials to its
2 employees regarding sex trafficking of minors and
3 sexually exploited children;

4 (3) Develop a public awareness campaign regarding sex
5 trafficking of minors; and

6 (4) Conduct outreach to youth identified as being at risk
7 for sexual exploitation.

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

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

15 (1) Details the implementation of the victim services
16 program for sexually exploited children; and

17 (2) Includes findings, recommendations, additional
18 appropriation requests, and proposed legislation, if
19 any.

20 **§ -4 Safe house for sexually exploited children.** The
21 department, to the extent funds are available, shall operate or
22 contract with an appropriate nonprofit agency with experience



1 working with sexually exploited children to operate at least one
2 safe house in a geographically appropriate area of the State.
3 Each safe house shall provide safe and secure housing and
4 specialized services for sexually exploited children throughout
5 the state. Nothing in this section shall be construed to
6 preclude an agency from applying for and accepting grants,
7 gifts, and bequests for funds from private individuals,
8 foundations, and the federal government for the purpose of
9 creating or carrying out the duties of a safe house for sexually
10 exploited children.

11 **§ -5 Temporary care and custody of sexually exploited**
12 **children.** (a) The department shall develop a protocol for the
13 interplay between the exemption provisions for sexually
14 exploited children established by this chapter and other
15 existing child protection statutes.

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

18 (1) Subject to the protective custody of a law enforcement
19 agent, if the child's family is unable to provide for
20 the child's health or safety; or



1 (2) Returned to the child's parents if, in the judgment of
2 the law enforcement agent, it is safe to do so without
3 jeopardizing the health or safety of the child."

4 SECTION 2. Chapter 346, part I, Hawaii Revised Statutes,
5 is amended by adding a new section to be appropriately
6 designated and to read as follows:

7 **"§346- Minor victims of prostitution special fund. (a)**
8 In addition to any disposition authorized by chapter 706 or 853,
9 any person who is:

10 (1) Convicted of an offense under part I of chapter 712
11 and who has been granted a deferred acceptance of
12 guilty or no contest plea when the offense involves
13 prostitution or promoting prostitution of a person
14 less than eighteen years old; or

15 (2) Charged with an offense under part I of chapter 712
16 when the offense involves prostitution or promoting
17 prostitution of a person less than eighteen years old
18 and who has been granted a deferred acceptance of
19 guilty or no contest plea;

20 shall be ordered to pay a monetary assessment of \$5,000.

21 Notwithstanding sections 706-640 and 706-641 and any other law
22 to the contrary, the assessments provided by this section shall



1 be in addition to and not in lieu of, and shall not be used to
2 offset or reduce, any fine authorized or required by law.

3 (b) There is established a special fund to be known as the
4 minor victims of prostitution special fund, to be administered
5 by the department of human services. Appropriations by the
6 legislature and all monetary assessments paid and interest
7 accrued on funds collected pursuant to this section shall be
8 deposited into the minor victims of prostitution special fund.
9 Moneys disbursed from the fund shall be used only for the
10 provision of services and treatment, such as securing
11 residential housing, health services, and social services, to
12 sexually exploited children pursuant to chapter . The
13 department may also use the funds for grants or purchases of
14 service, consistent with chapters 42F and 103F, to provide
15 services for sexually exploited children.

16 (c) Probation fees imposed under part III of chapter 706
17 shall be paid before payment of the monetary assessment."

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

20 **"§571-11 Jurisdiction; children.** Except as otherwise
21 provided in this chapter, the court shall have exclusive
22 original jurisdiction in proceedings:



1 (1) Concerning any person who is alleged to have committed
2 an act prior to achieving eighteen years of age that
3 would constitute a violation or attempted violation of
4 any federal, state, or local law or county ordinance.
5 Regardless of where the violation occurred,
6 jurisdiction may be taken by the court of the circuit
7 where the person resides, is living, or is found, or
8 in which the offense is alleged to have occurred;

9 (2) Concerning any child living or found within the
10 circuit:

11 (A) Who is neglected as to or deprived of educational
12 services because of the failure of any person or
13 agency to exercise that degree of care for which
14 it is legally responsible;

15 (B) Who is beyond the control of the child's parent
16 or other custodian or whose behavior is injurious
17 to the child's own or others' welfare;

18 (C) Who is neither attending school nor receiving
19 educational services required by law whether
20 through the child's own misbehavior or
21 nonattendance or otherwise; or

22 (D) Who is in violation of curfew;



- 1 (3) To determine the custody of any child or appoint a
- 2 guardian of any child;
- 3 (4) For the adoption of a person under chapter 578;
- 4 (5) For the termination of parental rights under sections
- 5 571-61 through 571-63;
- 6 (6) For judicial consent to the marriage, employment, or
- 7 enlistment of a child, when consent is required by
- 8 law;
- 9 (7) For the treatment or commitment of a mentally
- 10 defective or mentally ill child, or a child with an
- 11 intellectual disability;
- 12 (8) Under the Interstate Compact on Juveniles under
- 13 chapter 582 or the Interstate Compact for Juveniles
- 14 under chapter 582D;
- 15 (9) For the protection of any child under chapter 587A;
- 16 [and]
- 17 (10) For a change of name as provided in section
- 18 574-5(a)(2)(C) [-]; and
- 19 (11) Concerning any person under eighteen years of age who
- 20 is suspected of or charged with a violation of section
- 21 712-1200, 712-1206, 712-1207, or 712-1209 and later
- 22 granted exemption under section 712-1200(6),



1 712-1206(4), 712-1207(8), or 712-1209(3),
 2 respectively. Regardless of where the violation
 3 occurred, jurisdiction may be taken by the court of
 4 the circuit where the person resides, is living, or is
 5 found, or in which the offense is alleged to have
 6 occurred."

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

9 "~~+~~**§663J-7**~~+~~ **Statute of limitations.** (a) A claim under
 10 this chapter may not be brought against a person more than ~~two~~
 11 six years after an act of promoting prostitution by coercion by
 12 that person.

13 (b) The limitation period provided for in this chapter is
 14 tolled:

15 (1) During the minority of the individual who engages in
 16 prostitution; ~~or~~

17 (2) Any time there is a criminal offense investigation
 18 being actively conducted against the defendant by a
 19 governmental agency or there is a criminal offense
 20 charge, information, or indictment pending against the
 21 defendant~~-~~;



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

5 (4) If the plaintiff is a victim of a series of acts of
6 promoting prostitution by coercion by the same
7 defendant, until the last act of promoting
8 prostitution by coercion has occurred.

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

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

14 "**§712-1200 Prostitution.** (1) A person commits the
15 offense of prostitution if the person:

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

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

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



- 1 (3) Prostitution is a petty misdemeanor.
- 2 (4) A person convicted of committing the offense of
- 3 prostitution shall be sentenced as follows:
- 4 (a) For the first offense, when the court has not deferred
- 5 further proceedings pursuant to chapter 853, a
- 6 mandatory fine of \$500 and the person may be sentenced
- 7 to a term of imprisonment of not more than thirty days
- 8 or probation; provided that in the event the convicted
- 9 person defaults in payment of the \$500 fine, and the
- 10 default was not contumacious, the court may sentence
- 11 the person to perform services for the community as
- 12 authorized by section 706-605(1).
- 13 (b) For any subsequent offense, a mandatory fine of \$500
- 14 and a term of imprisonment of thirty days or
- 15 probation, without possibility of deferral of further
- 16 proceedings pursuant to chapter 853 and without
- 17 possibility of suspension of sentence.
- 18 (c) For the purpose of this subsection, if the court has
- 19 deferred further proceedings pursuant to chapter 853,
- 20 and notwithstanding any provision of chapter 853 to
- 21 the contrary, the defendant shall not be eligible to
- 22 apply for expungement pursuant to section 831-3.2



1 until four years following discharge. A plea
2 previously entered by a defendant under section 853-1
3 for a violation of this section shall be considered a
4 prior offense. When the court has ordered a sentence
5 of probation, the court may impose as a condition of
6 probation that the defendant complete a course of
7 prostitution intervention classes; provided that the
8 court may only impose such condition for one term of
9 probation.

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

13 (6) If it is determined, after a reasonable detention for
14 investigative purposes, that a person suspected of or charged
15 with a violation of subsection (1) was less than eighteen years
16 old at the time the offense of prostitution was committed, that
17 person shall be not be prosecuted under this section, and shall
18 be subject to the safe harbor provisions of chapter .
19 Exemption from prosecution under this section shall not apply to
20 patrons of prostitution or persons who procure or solicit
21 patrons for prostitution."



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

3 **"[+]§712-1206[+] Loitering for the purpose of engaging in**
4 **or advancing prostitution.** (1) For the purposes of this
5 section, "public place" means any street, sidewalk, bridge,
6 alley or alleyway, plaza, park, driveway, parking lot or
7 transportation facility or the doorways and entrance ways to any
8 building which fronts on any of the aforesaid places, or a motor
9 vehicle in or on any such place.

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

18 (3) Any person who remains or wanders about in a public
19 place and repeatedly beckons to, or repeatedly stops, or
20 repeatedly attempts to engage passers-by in conversation, or
21 repeatedly stops or attempts to stop motor vehicles, or
22 repeatedly interferes with the free passage of other persons for



1 the purpose of committing the crime of advancing prostitution as
2 that term is defined in section 712-1201(1) is guilty of a petty
3 misdemeanor.

4 (4) If it is determined, after a reasonable detention for
5 investigative purposes, that a person suspected of or charged
6 with a violation of subsection (2) was less than eighteen years
7 old at the time the offense of loitering for the purpose of
8 engaging in prostitution was committed, that person shall not be
9 prosecuted under this section, and shall be subject to the safe
10 harbor provisions of chapter . Exemption from prosecution
11 under this section shall not apply to patrons of prostitution or
12 purposes who procure or solicit patrons for prostitution."

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

15 **"§712-1207 Street solicitation of prostitution; designated**
16 **areas.** (1) It shall be unlawful for any person within the
17 boundaries of Waikiki and while on any public property to:
18 (a) Offer or agree to engage in sexual conduct with
19 another person in return for a fee; or
20 (b) Pay, agree to pay, or offer to pay a fee to another
21 person to engage in sexual conduct.



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

- 5 (a) Offer or agree to engage in sexual conduct with
- 6 another person in return for a fee; or
- 7 (b) Pay, agree to pay, or offer to pay a fee to another
- 8 person to engage in sexual conduct."

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

- 11 (a) Designates areas, each no larger than three square
- 12 miles, as zones of significant prostitution-related
- 13 activity that is detrimental to the health, safety, or
- 14 welfare of the general public; or
- 15 (b) Alters the boundaries of any existing area under
- 16 paragraph (a);

17 provided that not more than four areas may be designated within
18 the State.

19 (4) Notwithstanding any law to the contrary, any person
20 violating this section shall be guilty of a petty misdemeanor
21 and shall be sentenced to a mandatory term of thirty days
22 imprisonment. The term of imprisonment shall be imposed



1 immediately, regardless of whether the defendant appeals the
2 conviction, except as provided in subsection (5).

3 (5) As an option to the mandatory term of thirty days
4 imprisonment, if the court finds the option is warranted based
5 upon the defendant's record, the court may place the defendant
6 on probation for a period not to exceed six months, subject to
7 the mandatory condition that the defendant observe geographic
8 restrictions that prohibit the defendant from entering or
9 remaining on public property, in Waikiki and other areas in the
10 State designated by county ordinance during the hours from
11 6 p.m. to 6 a.m. Upon any violation of the geographic
12 restrictions by the defendant, the court, after hearing, shall
13 revoke the defendant's probation and immediately impose the
14 mandatory thirty-day term of imprisonment. Nothing contained in
15 this subsection shall be construed as prohibiting the imposition
16 of stricter geographic restrictions under section 706-624(2)(h).

17 (6) Any person charged under this section may be admitted
18 to bail, pursuant to section 804-4, subject to the mandatory
19 condition that the person observe geographic restrictions that
20 prohibit the defendant from entering or remaining on public
21 property, in Waikiki and other areas in the State designated by
22 county ordinance during the hours from 6 p.m. to 6 a.m.



1 Notwithstanding any other provision of law to the contrary, any
2 person who violates these bail restrictions shall have the
3 person's bail revoked after hearing and shall be imprisoned
4 forthwith. Nothing contained in this subsection shall be
5 construed as prohibiting the imposition of stricter geographic
6 restrictions under section 804-7.1.

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

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



1 ~~[(8)]~~ (9) For purposes of this section:

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

5 "Public property" includes any street, highway, road,
6 sidewalk, alley, lane, bridge, parking lot, park, or other
7 property owned or under the jurisdiction of any governmental
8 entity or otherwise open to the public.

9 "Sexual conduct" has the same meaning as in section
10 712-1200(2).

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

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

20 SECTION 8. Section 712-1209, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~+~~§712-1209~~+~~ Solicitation of prostitution near schools
2 or public parks. (1) A person commits the offense of
3 solicitation of prostitution near schools or public parks if,
4 within seven hundred fifty feet of a school or public park, the
5 person offers or agrees to pay a fee to another person to engage
6 in sexual conduct.

7 (2) Solicitation of prostitution near schools or public
8 parks is a misdemeanor.

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

18 ~~+~~ (4) For purposes of this section:

19 "School" has the same meaning as in section 712-1249.6(6).

20 "Sexual conduct" has the same meaning as in section
21 712-1200(2)."



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

4 SECTION 10. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



Report Title:

Minors; Prostitution; Family Court; Penal Code; Special Fund

Description:

Establishes a new chapter for the safe harbor of sexually exploited children. Establishes the minor victims of prostitution special fund. 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 a person who is under eighteen and suspected of or charged with a certain offense of prostitution shall be not be prosecuted, and shall be subject to the provisions of the safe harbor for sexually exploited children chapter. Effective July 1, 2050. (SD1)

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