

JAN 23 2015

A BILL FOR AN ACT

RELATING TO PROSTITUTION.

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

1 SECTION 1. Chapter 712, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§712- Solicitation of prostitution. (1) A person
5 commits the offense of solicitation of prostitution if the
6 person pays, agrees to pay, or offers to pay a fee to another to
7 engage in sexual conduct.

8 (2) As used in subsection (1), "sexual conduct" means
9 "sexual penetration", "deviate sexual intercourse", or "sexual
10 contact", as those terms are defined in section 707-700, or
11 "sodomasochistic abuse" as defined in section 707-752.

12 (3) Solicitation of prostitution is a petty misdemeanor.

13 (4) A person convicted of solicitation of prostitution
14 shall be assessed a fine of not less than \$1,000, provided that
15 \$1,000 of the assessed fine shall be credited to the general
16 fund.



1 (5) This section shall not apply to any member of a police
2 department, a sheriff, or a law enforcement officer acting in
3 the course and scope of duties, unless engaged in sexual
4 penetration or sadomasochistic abuse."

5 SECTION 2. Section 712-1200, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of prostitution if the
8 person[-

9 ~~(a) Engages]~~ engages in, or agrees or offers to engage in,
10 sexual conduct with another person for a fee [~~or~~

11 ~~(b) Pays, agrees to pay, or offers to pay a fee to another~~
12 ~~to engage in sexual conduct]."~~

13 SECTION 3. Section 712-1208, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) A person commits the offense of promoting travel for
16 prostitution if the person knowingly sells or offers to sell
17 travel services that include or facilitate travel for the
18 purpose of engaging in what would be [~~prostitution]~~ solicitation
19 of prostitution under section 712- if occurring in the State."

20 SECTION 4. Section 712-1209.5, Hawaii Revised Statutes, is
21 amended by amending subsection (2) to read as follows:



1 SECTION 5. Section 712A-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§712A-4 Covered offenses. Offenses for which property is
4 subject to forfeiture under this chapter are:

- 5 (a) All offenses that specifically authorize forfeiture;
- 6 (b) Murder, kidnapping, labor trafficking, gambling,
7 criminal property damage, robbery, bribery, extortion,
8 theft, unauthorized entry into motor vehicle,
9 burglary, money laundering, trademark counterfeiting,
10 insurance fraud, promoting a dangerous, harmful, or
11 detrimental drug, commercial promotion of marijuana,
12 methamphetamine trafficking, manufacturing of a
13 controlled substance with a child present, promoting
14 child abuse, promoting prostitution, solicitation of a
15 minor for prostitution, habitual solicitation of
16 prostitution, or electronic enticement of a child that
17 is chargeable as a felony offense under state law;
- 18 (c) The manufacture, sale, or distribution of a controlled
19 substance in violation of chapter 329, promoting
20 detrimental drugs or intoxicating compounds, promoting
21 pornography, promoting pornography for minors,



1 solicitation of prostitution, or solicitation of
 2 prostitution near schools or public parks, which is
 3 chargeable as a felony or misdemeanor offense, but not
 4 as a petty misdemeanor, under state law; and

5 (d) The attempt, conspiracy, solicitation, coercion, or
 6 intimidation of another to commit any offense for
 7 which property is subject to forfeiture."

8 SECTION 6. Section 853-4, Hawaii Revised Statutes, is
 9 amended by amending subsection (a) to read as follows:

10 "(a) This chapter shall not apply when:

11 (1) The offense charged involves the intentional, knowing,
 12 reckless, or negligent killing of another person;

13 (2) The offense charged is:

14 (A) A felony that involves the intentional, knowing,
 15 or reckless bodily injury, substantial bodily
 16 injury, or serious bodily injury of another
 17 person; or

18 (B) A misdemeanor or petty misdemeanor that carries a
 19 mandatory minimum sentence and that involves the
 20 intentional, knowing, or reckless bodily injury,



- 1 substantial bodily injury, or serious bodily
2 injury of another person;
- 3 (3) The offense charged involves a conspiracy or
4 solicitation to intentionally, knowingly, or
5 recklessly kill another person or to cause serious
6 bodily injury to another person;
- 7 (4) The offense charged is a class A felony;
- 8 (5) The offense charged is nonprobationable;
- 9 (6) The defendant has been convicted of any offense
10 defined as a felony by the Hawaii Penal Code or has
11 been convicted for any conduct that if perpetrated in
12 this State would be punishable as a felony;
- 13 (7) The defendant is found to be a law violator or
14 delinquent child for the commission of any offense
15 defined as a felony by the Hawaii Penal Code or for
16 any conduct that if perpetrated in this State would
17 constitute a felony;
- 18 (8) The defendant has a prior conviction for a felony
19 committed in any state, federal, or foreign
20 jurisdiction;



- 1 (9) A firearm was used in the commission of the offense
- 2 charged;
- 3 (10) The defendant is charged with the distribution of a
- 4 dangerous, harmful, or detrimental drug to a minor;
- 5 (11) The defendant has been charged with a felony offense
- 6 and has been previously granted deferred acceptance of
- 7 guilty plea status for a prior offense, regardless of
- 8 whether the period of deferral has already expired;
- 9 (12) The defendant has been charged with a misdemeanor
- 10 offense and has been previously granted deferred
- 11 acceptance of guilty plea status for a prior felony,
- 12 misdemeanor, or petty misdemeanor for which the period
- 13 of deferral has not yet expired;
- 14 (13) The offense charged is:
- 15 (A) Escape in the first degree;
- 16 (B) Escape in the second degree;
- 17 (C) Promoting prison contraband in the first degree;
- 18 (D) Promoting prison contraband in the second degree;
- 19 (E) Bail jumping in the first degree;
- 20 (F) Bail jumping in the second degree;
- 21 (G) Bribery;



- 1 (H) Bribery of or by a witness;
- 2 (I) Intimidating a witness;
- 3 (J) Bribery of or by a juror;
- 4 (K) Intimidating a juror;
- 5 (L) Jury tampering;
- 6 (M) Promoting prostitution in the second degree;
- 7 (N) Abuse of family or household member;
- 8 (O) Sexual assault in the second degree;
- 9 (P) Sexual assault in the third degree;
- 10 (Q) A violation of an order issued pursuant to
- 11 chapter 586;
- 12 (R) Promoting child abuse in the second degree;
- 13 (S) Promoting child abuse in the third degree;
- 14 (T) Electronic enticement of a child in the first
- 15 degree;
- 16 (U) Electronic enticement of a child in the second
- 17 degree;
- 18 [~~(V) Prostitution pursuant to section 712-1200(1)(b);~~]
- 19 (V) Solicitation of prostitution under section
- 20 712- ;



1 (W) Street solicitation of prostitution under section
2 712-1207(1) (b);

3 (X) Solicitation of prostitution near schools or
4 public parks under section 712-1209;

5 (Y) Habitual solicitation of prostitution under
6 section 712-1209.5; or

7 (Z) Solicitation of a minor for prostitution under
8 section 712-1209.1;

9 (14) The defendant has been charged with:

10 (A) Knowingly or intentionally falsifying any report
11 required under chapter 11, part XIII with the
12 intent to circumvent the law or deceive the
13 campaign spending commission; or

14 (B) Violating section 11-352 or 11-353; or

15 (15) The defendant holds a commercial driver's license and
16 has been charged with violating a traffic control law,
17 other than a parking law, in connection with the
18 operation of any type of motor vehicle."

19 SECTION 7. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect upon its approval.
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Report Title:

Prostitution; Solicitation of Prostitution

Description:

Adds a new section to chapter 712, HRS, which makes solicitation of prostitution a petty misdemeanor. Amends the prostitution statute by narrowing the offense to a person who engages in, or agrees or offers to engage in, sexual conduct with another person for a fee. Substitutes the offense of solicitation of prostitution for the offense of prostitution in sections 712-1208 (promoting travel for prostitution), 712-1209.5 (habitual solicitation of prostitution), and 853-4, HRS, which precludes certain offenses from being eligible for a deferred plea. Adds the offense of solicitation of prostitution to 712A-4, HRS, to the list of offenses for which property is subject to civil forfeiture.

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

