
A BILL FOR AN ACT

RELATING TO PROSTITUTION.

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

1 SECTION 1. The legislature finds that ensuring the health,
2 safety, and well-being of people in the State, including sex
3 workers, is a priority. However, statutes relating to
4 prostitution often cause harm to people without the
5 justification of a clear public purpose. The mere fact that
6 some members of the community may be morally offended by the
7 existence of prostitution should not be an excuse to criminalize
8 private consensual conduct engaged in by adults behind closed
9 doors, especially when public acts of sexual conduct are already
10 sanctioned in laws governing public lewdness.

11 To address these problems, this Act repeals and clarifies a
12 series of statutes relating to prostitution, with an intent to
13 remove criminal sanctions against acts between consenting
14 adults, allow for limited county authority to regulate public
15 activities relating to prostitution, and amend and remove
16 language that could create major felony exposure for those
17 committing lesser crimes. This includes clarifying various



1 crimes involving minors that were written to protect young
2 people from exploitive adults, and not to criminalize the
3 behavior of other young persons.

4 This Act also amends sections 712-1200, 712-1201, 712-1202,
5 712-1203, 712-1209.1, and 712-1209.6, Hawaii Revised Statutes,
6 to allow for the prosecution of sex trafficking and the abuse of
7 younger minors, without violating the rights to liberty outlined
8 in the state constitution. Further, this Act repeals sections
9 712-1206 and 712-1209, Hawaii Revised Statutes. Sections
10 712-1208 and 712-1209.5, Hawaii Revised Statutes, which were
11 drafted strictly to appeal to persons who morally object to
12 people who hire prostitutes, are also repealed.

13 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
14 by adding a new section to be appropriately designated and to
15 read as follows:

16 **"§46- Street solicitation of prostitution in designated**
17 **areas.** (a) No person within the boundaries designated by
18 county ordinance pursuant to subsection (b), and while on any
19 public property may:

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



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

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

5 (1) 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 (2) Alters the boundaries of any existing area under
10 paragraph (1);

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

13 (c) Any person violating this section shall pay a civil
14 penalty of \$500.

15 (d) This section shall not apply to any member of a police
16 department, a sheriff or deputy sheriff, or any other law
17 enforcement officer acting in the course and scope of duties,
18 unless engaged in sexual conduct.

19 (e) For purposes of this section:



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

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

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

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

13 **"§712- Prostitution; motion to vacate conviction based**
14 **on amendment or repeal of offense. (1) Subject to subsection**
15 **(4), a defendant convicted for the offense of prostitution under**
16 **section 712-1200 as that section read in any form before July 1,**
17 **2019, may have the conviction vacated pursuant to this section,**
18 **unless the action or actions for which the person was convicted**
19 **under section 712-1200 in any previous form would have**
20 **constituted an offense under section 712-1200 as it read on**
21 **July 1, 2019.**



1 (2) Subject to subsection (4), a defendant convicted for:

2 (a) Loitering for the purpose of engaging in or advancing
3 prostitution under section 712-1206;

4 (b) Promoting travel for prostitution under section
5 712-1208;

6 (c) Solicitation of prostitution near schools or public
7 parks under section 712-1209; or

8 (d) Habitual solicitation of prostitution under section
9 712-1209.5,

10 as that section read in any form before July 1, 2019, may have
11 the conviction vacated pursuant to this section.

12 (3) Subject to subsection (4), a defendant convicted for
13 street solicitation of prostitution under section 712-1207 as
14 that section read in any form before July 1, 2019, may have the
15 conviction vacated pursuant to this section; provided that:

16 (a) At least twelve months have lapsed since the
17 conviction; and

18 (b) The defendant has not been subsequently charged or
19 convicted of any other offense.



1 (4) An offense may not be vacated pursuant to this section
2 if the offense arose from a set of facts and circumstances that
3 resulted in other criminal charges against the defendant.

4 (5) A motion filed under this section shall:

5 (a) Be in writing;

6 (b) Be signed and sworn to by the petitioner;

7 (c) Describe all the grounds and evidence for vacation of
8 a conviction which are available to the petitioner and

9 of which the petitioner has or by the exercise of
10 reasonable diligence should have knowledge, and

11 provide copies of any official documents showing that
12 the defendant is entitled to relief under this

13 section; and

14 (d) Be subject to the review and written approval of the
15 state agency or county prosecutor responsible for

16 prosecuting the offense that is the subject of the
17 motion to vacate conviction.

18 (6) The court shall hold a hearing on a motion filed under
19 this section if the motion satisfies the requirements of

20 subsection (5).



1 (7) If the court grants a motion filed under this section,
2 the court shall vacate the conviction."

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

5 "**§712-1200 Prostitution.** (1) A person [~~commits the~~
6 ~~offense~~] engages in an act of prostitution if the person:

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

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

11 (2) As used in this section:

12 "Minor" means a person who is less than eighteen years of
13 age.

14 "Sexual conduct" means "sexual penetration", "deviate
15 sexual intercourse", or "sexual contact", as those terms are
16 defined in section 707-700, or "sodomasochistic abuse" as
17 defined in section 707-752.

18 (3) Prostitution is [~~a petty misdemeanor,~~] not an offense
19 under this section if each person who engages in an act of
20 prostitution is at least eighteen years of age; provided that[+



1 ~~(b) For any subsequent offense, a fine of not less than~~
2 ~~\$500 but not more than \$1,000 and a term of~~
3 ~~imprisonment of thirty days or probation, without~~
4 ~~possibility of deferral of further proceedings~~
5 ~~pursuant to chapter 853 and without possibility of~~
6 ~~suspension of sentence.~~

7 ~~(c) For the purpose of this subsection, if the court has~~
8 ~~deferred further proceedings pursuant to chapter 853,~~
9 ~~and notwithstanding any provision of chapter 853 to~~
10 ~~the contrary, the defendant shall not be eligible to~~
11 ~~apply for expungement pursuant to section 831.3.2~~
12 ~~until four years following discharge. A plea~~
13 ~~previously entered by a defendant under section 853.1~~
14 ~~for a violation of this section shall be considered a~~
15 ~~prior offense. When the court has ordered a sentence~~
16 ~~of probation, the court may impose as a condition of~~
17 ~~probation that the defendant complete a course of~~
18 ~~prostitution intervention classes; provided that the~~
19 ~~court may only impose the condition for one term of~~
20 ~~probation.~~



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

5 ~~(6)~~ (5) A minor may be taken into custody by any police
6 officer without order of the judge when there are reasonable
7 grounds to believe that the minor has violated [~~+~~]subsection[~~+~~]
8 (1)(a). The minor shall be released, referred, or transported
9 pursuant to section 571-31(b). The minor shall be subject to
10 the jurisdiction of the family court pursuant to section 571-
11 11(1), including for the purposes of custody, detention,
12 diversion, and access to services and resources."

13 SECTION 5. Section 712-1201, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§712-1201 Advancing prostitution; profiting from**
16 **prostitution; definition of terms.** In sections 712-1202 and
17 712-1203[~~+~~], unless the context requires otherwise:

18 ~~(1)~~ A person "advances prostitution" if, acting other
19 than as a prostitute or a patron of a prostitute, the person
20 knowingly causes or aids a person to commit or engage in
21 prostitution, procures or solicits patrons for prostitution,



1 provides persons for prostitution purposes, permits premises to
 2 be regularly used for prostitution purposes, operates or assists
 3 in the operation of a house of prostitution or a prostitution
 4 enterprise, or engages in any other conduct that is harmful or
 5 abuse of a prostitute and designed to institute, aid, or
 6 facilitate an act or enterprise of prostitution.

7 [+2+] A person "profits from prostitution" if, acting
 8 other than as a prostitute receiving compensation for
 9 personally-rendered prostitution services, the person accepts or
 10 receives money or other property pursuant to an agreement or
 11 understanding with any person whereby the person participates or
 12 is to participate in the proceeds of prostitution activity."

13 SECTION 6. Section 712-1202, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "**§712-1202 Sex trafficking.** (1) A person commits the
 16 offense of sex trafficking if the person [~~knowingly~~]:

17 (a) [~~Advances~~] Knowingly advances prostitution by
 18 compelling or inducing a person by force, threat,
 19 fraud, or intimidation to engage in prostitution, or
 20 profits from [~~such~~] that conduct by another; or



1 (b) [~~Advances~~] Is at least eighteen years of age and
 2 knowingly advances or profits from prostitution of a
 3 [~~minor,~~] person under the age of sixteen; provided
 4 that with respect to the victim's age, the prosecution
 5 shall be required to prove only that the person
 6 committing the offense acted negligently.

7 (2) Sex trafficking is a class A felony.

8 (3) As used in this section:

9 "Fraud" means making material false statements,
 10 misstatements, or omissions.

11 [~~"Minor" means a person who is less than eighteen years of~~
 12 ~~age.~~]

13 "Threat" means any of the actions listed in section
 14 707-764(1)."

15 SECTION 7. Section 712-1203, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§712-1203 Promoting prostitution.** (1) A person commits
 18 the offense of promoting prostitution if the person is of a
 19 certain age as described in subsection (2) and knowingly
 20 advances or profits from prostitution[~~-~~] of a minor.

21 (2) Promoting prostitution is a [~~class~~]:



1 (a) Class B felony[-] if the offender is at least twenty-
2 one years of age; and

3 (b) Class C felony if the offender is under the age of
4 twenty-one but no less than five years older than the
5 minor."

6 SECTION 8. Section 712-1209.1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§712-1209.1 Solicitation of a minor for prostitution.**

9 (1) A person [~~eighteen years of age or older~~] commits the
10 offense of solicitation of a minor for prostitution if the
11 person is:

12 (a) Twenty-one years of age or older and intentionally,
13 knowingly, or recklessly offers or agrees to pay a fee
14 to a minor under the age of sixteen or to a member of
15 a police department, a sheriff, or a law enforcement
16 officer who represents that person's self as a minor
17 under the age of sixteen to engage in sexual
18 conduct[-]; or

19 (b) Under the age of twenty-one but at least eighteen
20 years of age and intentionally, knowingly, or
21 recklessly offers or agrees to pay a fee to a minor no



1 less than five years younger than the person or to a
2 member of a police department, a sheriff, or a law
3 enforcement officer who represents that person's self
4 as a minor no less than five years younger than the
5 person making the solicitation.

6 (2) Solicitation of a minor for prostitution is a class C
7 felony.

8 ~~[(3) A person convicted of committing the offense of~~
9 ~~solicitation of a minor for prostitution shall be imposed a fine~~
10 ~~of not less than \$5,000; provided that \$5,000 of the imposed~~
11 ~~fine shall be credited to the general fund.~~

12 ~~+(4)]~~ (3) This section shall not apply to any member of a
13 police department, a sheriff, or a law enforcement officer who
14 offers or agrees to pay a fee to a minor while acting in the
15 course and scope of duties~~[-]~~, unless engaged in sexual conduct.

16 ~~+(5)]~~ (4) The state of mind requirement for this offense
17 is not applicable to the fact that the person solicited was a
18 minor. A person is strictly liable with respect to the
19 attendant circumstance that the person solicited was a minor.

20 ~~+(6)]~~ (5) For purposes of this section~~[-]~~



1 ~~"Minor" means a person who is less than eighteen years of~~
2 ~~age.~~

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

5 SECTION 9. Section 712-1209.6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§712-1209.6 Prostitution; motion by sex trafficking**

8 **victim to vacate conviction.** (1) A ~~[person]~~ defendant
9 convicted of committing the offense of prostitution under
10 section 712-1200, loitering for the purpose of engaging in or
11 advancing prostitution under section 712-1206, as that section
12 read before July 1, 2019, street solicitation of prostitution in
13 designated areas under section 712-1207, as that section read
14 before July 1, 2019, or convicted of a lesser offense when
15 originally charged with a violation of ~~[section 712-1200,~~
16 ~~712-1206, or 712-1207,]~~ one or more of the foregoing sections,
17 and does not meet the criteria to have the conviction vacated
18 under section 712-____, may file a motion to vacate the
19 conviction under this section if the defendant's participation
20 in the offense was the result of the person having been a victim
21 of:



- 1 (a) Sex trafficking under section 712-1202 or promoting
2 prostitution under section 712-1203; or
- 3 (b) A severe form of trafficking in persons as defined in
4 title 22 United States Code section 7102(9)(A).
- 5 (2) A motion filed under this section shall:
- 6 (a) Be in writing;
- 7 (b) Be signed and sworn to by the petitioner;
- 8 (c) Be made within six years after the date that the
9 ~~[person]~~ defendant ceases to be a victim as described
10 in subsection (1), subject to reasonable concerns for
11 the safety of the defendant, family members of the
12 defendant, or other victims of the trafficking that
13 may be jeopardized by the bringing of a motion, or for
14 other reasons consistent with the purpose of this
15 section;
- 16 (d) Describe all the grounds and evidence for vacation of
17 a conviction which are available to the petitioner and
18 of which the petitioner has or by the exercise of
19 reasonable diligence should have knowledge, and
20 provide copies of any official documents showing that



1 the defendant is entitled to relief under this
2 section; and

3 (e) Be subject to the review and written approval of the
4 state agency or county prosecutor responsible for
5 prosecuting the offense that is the subject of the
6 motion to vacate conviction.

7 (3) The court shall hold a hearing on a motion filed under
8 this section if the motion satisfies the requirements of
9 subsection (2); provided that the court may dismiss a motion
10 without a hearing if the court finds that the motion fails to
11 assert grounds on which relief may be granted.

12 (4) If the court grants a motion filed under this section,
13 the court shall vacate the conviction.

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

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

19 (a) Sex trafficking under section 712-1202;

20 (b) Promoting prostitution under section 712-1203; or



1 (c) A ~~[person]~~ defendant who pays, agrees to pay or offers
2 a fee to another person to engage in sexual conduct."

3 SECTION 10. Section 804-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§804-4 When a matter of right.** (a) If the charge is for
6 an offense for which bail is allowable under section 804-3, the
7 defendant may be admitted to bail before conviction as a matter
8 of right. [~~Except for section 712-1207(7), bail shall be~~
9 ~~allowed for any person charged under section 712-1207 only~~
10 ~~subject to the mandatory condition that the person observe~~
11 ~~geographic restrictions that prohibit the defendant from~~
12 ~~entering or remaining on public property, in Waikiki and other~~
13 ~~areas in the State designated by county ordinance during the~~
14 ~~hours from 6 p.m. to 6 a.m.; and provided further that nothing~~
15 ~~contained in this subsection shall be construed as prohibiting~~
16 ~~the imposition of stricter geographic restrictions under section~~
17 ~~804-7.1.] The right to bail shall continue after conviction of
18 a misdemeanor, petty misdemeanor, or violation, and release on
19 bail may continue, in the discretion of the court, after
20 conviction of a felony until the final determination of any
21 motion for a new trial, appeal, habeas corpus, or other~~



1 proceedings that are made, taken, issued, or allowed for the
 2 purpose of securing a review of the rulings, verdict, judgment,
 3 sentence, or other proceedings of any court or jury in or by
 4 which the defendant has been arraigned, tried, convicted, or
 5 sentenced; provided that:

6 (1) No bail shall be allowed after conviction and prior to
 7 sentencing in cases where bail was not available under
 8 section 804-3, or where bail was denied or revoked
 9 before conviction; and

10 (2) No bail shall be allowed pending appeal of a felony
 11 conviction where a sentence of imprisonment has been
 12 imposed[; ~~and~~

13 ~~(3) No bail shall be allowed pending appeal of a~~
 14 ~~conviction for a violation of section 712-1207, unless~~
 15 ~~the court finds, based on the defendant's record, that~~
 16 ~~the defendant may be admitted to bail subject to the~~
 17 ~~mandatory condition that the person observe geographic~~
 18 ~~restrictions that prohibit the defendant from entering~~
 19 ~~or walking along the public streets or sidewalks of~~
 20 ~~Waikiki or other areas in the State designated by~~



1 ~~county ordinance pursuant to section 712-1207 during~~
2 ~~the hours from 6 p.m. to 6 a.m.].~~

3 Notwithstanding any other provision of law to the contrary, any
4 person who violates these bail restrictions shall have the
5 person's bail revoked after hearing and shall be imprisoned
6 forthwith.

7 (b) The court shall order that a person who has been found
8 guilty of an offense and sentenced to a term of imprisonment,
9 and who has filed an appeal or a petition for a writ of
10 certiorari, be detained, unless the court finds:

11 (1) By clear and convincing evidence that the person is
12 not likely to flee or pose a danger to the safety of
13 any other person or the community if released; and

14 (2) That the appeal is not for purpose of delay and raises
15 a substantial question of law or fact likely to result
16 in reversal or an order for a new trial.

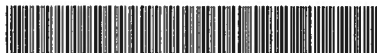
17 If the court makes these findings, the court shall order the
18 release of the person in accordance with section 804-7.1. No
19 defendant entitled to bail, whether bailed or not, shall be
20 subject, without the defendant's written consent, to the
21 operation of any sentence passed upon the defendant, while any



1 proceedings to procure a review of any action of the trial court
2 or jury in the premises are pending and undetermined, except as
3 provided in section 641-14(a) [~~or section 712-1207~~]."

4 SECTION 11. Section 804-5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§804-5 By whom allowed.** In cases where the punishment
7 for the offense charged may be imprisonment for life not subject
8 to parole, or imprisonment for a term more than ten years with
9 or without fine, a judge or justice of a court of record,
10 including a district judge, shall be competent to admit the
11 accused to bail, in conformity with sections 804-3 to 804-6. In
12 all other cases, the accused may be so admitted to bail by any
13 judge or justice of a court of record, including a district
14 judge, and in cases [~~except under section 712-1207,~~] where the
15 punishment for the offense charged may not exceed two years'
16 imprisonment with or without fine, the sheriff, the sheriff's
17 deputy, the chief of police or any person named by the chief of
18 police, or the sheriff of Kalawao, regardless of the circuit
19 within which the alleged offense was committed, may admit the
20 accused person to bail."



1 SECTION 12. Section 806-83, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Criminal charges may be instituted by written
4 information for a felony when the charge is a class C felony,
5 except under:

6 (1) Section 159-28 (bribery related to the Hawaii Meat
7 Inspection Act);

8 (2) Section 161-28 (bribery related to the Hawaii Poultry
9 Inspection Act);

10 (3) Section 707-712.5 (assault against a law enforcement
11 officer in the first degree);

12 (4) Section 707-716 (terroristic threatening in the first
13 degree);

14 (5) Section 707-732 (sexual assault in the third degree);

15 (6) Section 707-741 (incest);

16 (7) Section 707-752 (promoting child abuse in the third
17 degree);

18 (8) Section 708-880 (commercial bribery);

19 (9) Section 709-904.5 (compensation by an adult of
20 juveniles for crimes);



- 1 (10) Section 710-1026.9 (resisting an order to stop a motor
2 vehicle in the first degree);
- 3 (11) Section 710-1070 (bribery of or by a witness);
- 4 (12) Section 710-1071 (intimidating a witness);
- 5 (13) Section 710-1072.2 (retaliating against a witness);
- 6 (14) Section 710-1073 (bribery of or by a juror);
- 7 (15) Section 710-1075 (jury tampering);
- 8 (16) Section 710-1075.5 (retaliating against a juror);
- 9 (17) Section 711-1106.4 (aggravated harassment by
10 stalking);
- 11 (18) Section 711-1110.9 (violation of privacy in the first
12 degree);
- 13 [~~(19)~~ ~~Section 712-1208 (promoting travel for prostitution);~~
- 14 ~~(20)~~] (19) Section 712-1209.1 (solicitation of a minor for
15 prostitution);
- 16 [~~(21)~~ ~~Section 712-1209.5 (habitual solicitation of~~
17 ~~prostitution);~~
- 18 ~~(22)~~] (20) Section 712-1215 (promoting pornography for
19 minors);
- 20 [~~(23)~~ (21) Section 712-1218 (failure to maintain age
21 verification records of sexual performers);



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



- 1 (10) The defendant is charged with the distribution of a
- 2 dangerous, harmful, or detrimental drug to a minor;
- 3 (11) The defendant has been charged with a felony offense
- 4 and has been previously granted deferred acceptance of
- 5 guilty plea or no contest plea for a prior offense,
- 6 regardless of whether the period of deferral has
- 7 already expired;
- 8 (12) The defendant has been charged with a misdemeanor
- 9 offense and has been previously granted deferred
- 10 acceptance of guilty plea or no contest plea for a
- 11 prior felony, misdemeanor, or petty misdemeanor for
- 12 which the period of deferral has not yet expired;
- 13 (13) The offense charged is:
- 14 (A) Escape in the first degree;
- 15 (B) Escape in the second degree;
- 16 (C) Promoting prison contraband in the first degree;
- 17 (D) Promoting prison contraband in the second degree;
- 18 (E) Bail jumping in the first degree;
- 19 (F) Bail jumping in the second degree;
- 20 (G) Bribery;
- 21 (H) Bribery of or by a witness;



- 1 (I) Intimidating a witness;
- 2 (J) Bribery of or by a juror;
- 3 (K) Intimidating a juror;
- 4 (L) Jury tampering;
- 5 (M) Promoting prostitution;
- 6 (N) Abuse of family or household member;
- 7 (O) Sexual assault in the second degree;
- 8 (P) Sexual assault in the third degree;
- 9 (Q) A violation of an order issued pursuant to
- 10 chapter 586;
- 11 (R) Promoting child abuse in the second degree;
- 12 (S) Promoting child abuse in the third degree;
- 13 (T) Electronic enticement of a child in the first
- 14 degree;
- 15 (U) Electronic enticement of a child in the second
- 16 degree;
- 17 ~~(V) Prostitution pursuant to section 712-1200(1)(b);~~
- 18 ~~(W) Street solicitation of prostitution under section~~
- 19 ~~712-1207(1)(b);~~
- 20 ~~(X) Solicitation of prostitution near schools or~~
- 21 ~~public parks under section 712-1209;~~



1 ~~(Y) Habitual solicitation of prostitution under~~
2 ~~section 712-1209.5,] or~~

3 ~~[(Z)]~~ (V) Solicitation of a minor for prostitution
4 under section 712-1209.1;

5 (14) The defendant has been charged with:

6 (A) Knowingly or intentionally falsifying any report
7 required under chapter 11, part XIII with the
8 intent to circumvent the law or deceive the
9 campaign spending commission; or

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

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

15 SECTION 14. Section 712-1206, Hawaii Revised Statutes, is
16 repealed.

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



1 ~~fronts on any of the aforesaid places, or a motor vehicle in or~~
2 ~~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 SECTION 15. Section 712-1207, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§712-1207 Street solicitation of prostitution,~~
2 ~~designated areas. (1) It shall be unlawful for any person~~
3 ~~within the boundaries of Waikiki 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 ~~(2) It shall be unlawful for any person within the~~
10 ~~boundaries of other areas in this State designated by county~~
11 ~~ordinance pursuant to subsection (3), and while on any public~~
12 ~~property to:~~
13 ~~(a) Offer or agree to engage in sexual conduct with~~
14 ~~another person in return for a fee; or~~
15 ~~(b) Pay, agree to pay, or offer to pay a fee to another~~
16 ~~person to engage in sexual conduct.~~
17 ~~(3) Upon a recommendation of the chief of police of a~~
18 ~~county, that county may enact an ordinance that:~~
19 ~~(a) Designates areas, each no larger than three square~~
20 ~~miles, as zones of significant prostitution-related~~



1 ~~activity that is detrimental to the health, safety, or~~
2 ~~welfare of the general public; or~~

3 ~~(b) Alters the boundaries of any existing area under~~
4 ~~paragraph (a);~~

5 ~~provided that not more than four areas may be designated within~~
6 ~~the State.~~

7 ~~(4) Notwithstanding any law to the contrary, any person~~
8 ~~violating this section shall be guilty of a petty misdemeanor~~
9 ~~and shall be sentenced to a mandatory term of thirty days~~
10 ~~imprisonment. The term of imprisonment shall be imposed~~
11 ~~immediately, regardless of whether the defendant appeals the~~
12 ~~conviction, except as provided in subsection (5).~~

13 ~~(5) As an option to the mandatory term of thirty days~~
14 ~~imprisonment, if the court finds the option is warranted based~~
15 ~~upon the defendant's record, the court may place the defendant~~
16 ~~on probation for a period not to exceed six months, subject to~~
17 ~~the mandatory condition that the defendant observe geographic~~
18 ~~restrictions that prohibit the defendant from entering or~~
19 ~~remaining on public property, in Waikiki and other areas in the~~
20 ~~State designated by county ordinance during the hours from 6~~
21 ~~p.m. to 6 a.m. Upon any violation of the geographic~~



1 ~~restrictions by the defendant, the court, after hearing, shall~~
2 ~~revoke the defendant's probation and immediately impose the~~
3 ~~mandatory thirty day term of imprisonment. Nothing contained in~~
4 ~~this subsection shall be construed as prohibiting the imposition~~
5 ~~of stricter geographic restrictions under section 706-624(2)(h).~~

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

12 ~~Notwithstanding any other provision of law to the contrary, any~~
13 ~~person who violates these bail restrictions shall have the~~
14 ~~person's bail revoked after hearing and shall be imprisoned~~
15 ~~forthwith. Nothing contained in this subsection shall be~~
16 ~~construed as prohibiting the imposition of stricter geographic~~
17 ~~restrictions under section 804-7.1.~~

18 ~~(7) Notwithstanding any other law to the contrary, a~~
19 ~~police officer, without warrant, may arrest any person when the~~
20 ~~officer has probable cause to believe that the person has~~
21 ~~committed a violation of subsection (5) or (6), and the person~~



1 ~~shall be detained, without bail, until the hearing under the~~
2 ~~appropriate subsection can be held, which hearing shall be held~~
3 ~~as soon as reasonably practicable.~~

4 ~~(8) For purposes of this section:~~

5 ~~"Area" means any zone within a county that is defined with~~
6 ~~specific boundaries and designated as a zone of significant~~
7 ~~prostitution by this section or a county ordinance.~~

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

12 ~~"Sexual conduct" has the same meaning as in section 712-~~
13 ~~1200(2).~~

14 ~~"Waikiki" means that area of Oahu bounded by the Ala Wai~~
15 ~~canal, the ocean, and Kapahulu avenue.~~

16 ~~(9) This section shall apply to all counties, provided~~
17 ~~that if a county enacts an ordinance to regulate street~~
18 ~~solicitation for prostitution, other than an ordinance~~
19 ~~designating an area as a zone of significant prostitution-~~
20 ~~related activity, the county ordinance shall supersede this~~



1 ~~section and no person shall be convicted under this section in~~
2 ~~that county."]~~

3 SECTION 16. Section 712-1208, Hawaii Revised Statutes, is
4 repealed.

5 ~~["~~§712-1208~~ Promoting travel for prostitution. (1) A~~
6 ~~person commits the offense of promoting travel for prostitution~~
7 ~~if the person knowingly sells or offers to sell travel services~~
8 ~~that include or facilitate travel for the purpose of engaging in~~
9 ~~what would be prostitution if occurring in the State.~~

10 ~~(2) "Travel services" has the same meaning as in section~~
11 ~~468L-1.~~

12 ~~(3) Promoting travel for prostitution is a class C~~
13 ~~felony."]~~

14 SECTION 17. Section 712-1209, Hawaii Revised Statutes, is
15 repealed.

16 ~~["~~§712-1209~~ Solicitation of prostitution near schools or~~
17 ~~public parks. (1) A person commits the offense of solicitation~~
18 ~~of prostitution near schools or public parks if, within seven~~
19 ~~hundred fifty feet of a school or public park, the person offers~~
20 ~~or agrees to pay a fee to another person to engage in sexual~~
21 ~~conduct.~~



1 ~~(2) Solicitation of prostitution near schools or public~~
2 ~~parks is a misdemeanor.~~

3 ~~(3) For purposes of this section:~~

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

5 ~~"Sexual conduct" has the same meaning as in section~~
6 ~~712-1200(2)."]~~

7 SECTION 18. Section 712-1209.5, Hawaii Revised Statutes,
8 is repealed.

9 ~~["~~§712-1209.5~~ Habitual solicitation of prostitution.~~

10 ~~(1) A person commits the offense of habitual solicitation of~~
11 ~~prostitution if the person is a habitual prostitution offender~~
12 ~~and pays, agrees to pay, or offers to pay a fee to another~~
13 ~~person to engage in sexual conduct.~~

14 ~~(2) For the purposes of this section, a person has the~~
15 ~~status of a "habitual prostitution offender" if the person, at~~
16 ~~the time of the conduct for which the person is charged, had two~~
17 ~~or more convictions within ten years of the instant offense for:~~

18 ~~(a) Prostitution, in violation of section 712-1200(1)(b);~~

19 ~~(b) Street solicitation of prostitution, in violation of~~
20 ~~section 712-1207(1)(b);~~



1 ~~(c) Habitual solicitation of prostitution, in violation of~~
2 ~~this section,~~

3 ~~(d) An offense of any other jurisdiction that is~~
4 ~~comparable to one of the offenses in paragraph (a),~~
5 ~~(b), or (c), or~~

6 ~~(e) Any combination of the offenses in paragraph (a), (b),~~
7 ~~(c), or (d).~~

8 ~~A conviction for purposes of this section is a judgment on the~~
9 ~~verdict or a finding of guilt, or a plea of guilty or nolo~~
10 ~~contendere. The convictions must have occurred on separate~~
11 ~~dates and be for separate incidents on separate dates. At the~~
12 ~~time of the instant offense, the conviction must not have been~~
13 ~~expunged by pardon, reversed, or set aside.~~

14 ~~(3) Habitual solicitation of prostitution is a class C~~
15 ~~felony."]~~

16 SECTION 19. Any county ordinance enacted pursuant to
17 section 707-1207(9), Hawaii Revised Statutes, as it read before
18 the effective date of this Act shall be void as of the effective
19 date of this Act.



H.B. NO. 1513

1 SECTION 20. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 21. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 22. This Act shall take effect on July 1, 2019.

7

INTRODUCED BY: *Joan B/R*

JAN 24 2019



H.B. NO. 1513

Report Title:

Prostitution; Sex Trafficking; Motions to Vacate

Description:

Repeals or amends various criminal offenses relating to prostitution.

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

