
A BILL FOR AN ACT

RELATING TO MOTIONS TO VACATE CONVICTIONS FOR PROSTITUTION-RELATED OFFENSES.

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

1 SECTION 1. Section 712-1209.6, Hawaii Revised Statutes, is
2 amended by amending subsections (1) through (4) to read as
3 follows:

4 "(1) A person convicted of committing the offense of
5 prostitution under section 712-1200, loitering for the purpose
6 of engaging in or advancing prostitution under section 712-1206,
7 street solicitation of prostitution in designated areas under
8 section 712-1207, or convicted of a lesser offense when
9 originally charged with a violation of section 712-1200, 712-
10 1206, or 712-1207, may file a motion to vacate the conviction if
11 the ~~[defendant's participation in the offense was the result of~~
12 ~~the person having been a victim of:~~

13 ~~(a) Sex trafficking under section 712-1202 or promoting~~
14 ~~prostitution under section 712-1203; or~~

15 ~~(b) A severe form of trafficking in persons as defined in~~
16 ~~title 22 United States Code section 7102(9)(A).]~~



1 defendant is not subsequently convicted of any offense under the
2 penal code within twelve months after the date of conviction for
3 the offense the defendant is attempting to vacate.

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

5 (a) Be in writing; and

6 (b) Be signed and sworn to by the petitioner[+]

7 ~~(c) Be made within six years after the date that the~~

8 ~~person ceases to be a victim as described in~~

9 ~~subsection (1), subject to reasonable concerns for the~~

10 ~~safety of the defendant, family members of the~~

11 ~~defendant, or other victims of the trafficking that~~

12 ~~may be jeopardized by the bringing of a motion, or for~~

13 ~~other reasons consistent with the purpose of this~~

14 ~~section;~~

15 ~~(d) Describe all the grounds and evidence for vacation of~~

16 ~~a conviction which are available to the petitioner and~~

17 ~~of which the petitioner has or by the exercise of~~

18 ~~reasonable diligence should have knowledge, and~~

19 ~~provide copies of any official documents showing that~~

20 ~~the defendant is entitled to relief under this~~

21 ~~section; and~~



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

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

10 (4) [~~If the] The court [~~grants a motion filed under this~~
11 ~~section, the court]~~ shall review the defendant's record over the
12 twelve months after the date of the conviction for the offense
13 described in subsection (1). If the court finds that the
14 defendant has not been convicted of any offense under the penal
15 code within the foregoing period, the court shall grant the
16 motion and vacate the conviction."~~

17 SECTION 2. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO. 1518

1 SECTION 4. This Act shall take effect on July 1, 2019.

2

INTRODUCED BY: *ocun* *B/R*

JAN 24 2019



H.B. NO. 1518

Report Title:

Prostitution; Motions to Vacate Convictions

Description:

Allows a defendant convicted of one of certain prostitution offenses to file a motion to vacate the conviction if the defendant is not subsequently convicted of any offense under the penal code within twelve months after the date of the original conviction. Repeals provisions allowing a motion to vacate when the convicted person was a victim of trafficking, and related procedural requirements.

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