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## A BILL FOR AN ACT

RELATING TO SEXUAL OFFENSES.

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

1           SECTION 1. The legislature finds that when children are  
2 solicited for sex, it may not be done with monetary  
3 consideration, but rather something of value, such as a reward,  
4 token, or other incentive. This is unfortunately the case in a  
5 survival sex scenario where a child is offered basic necessities  
6 in exchange for sex. Survival sex is defined as trading sex  
7 acts (including prostitution, stripping, pornography, etc.) in  
8 order to get a basic need, such as a meal for the day, a place  
9 to sleep at night, clothes, transportation, etc. No money is  
10 exchanged. This is commonly seen in poor, homeless, or runaway  
11 youth who have no other means of getting their basic needs met.

12           The legislature notes that the solicitation of a minor for  
13 prostitution statute, is analogous to the electronic enticement  
14 of a child in the first degree statute, a class B felony, which  
15 does not require a fee or consideration in exchange for the same  
16 sexual conduct. Both offenses address the same population with  
17 the same mental state and overt action of an adult intending to



1 engage in sexual conduct with a minor. Therefore, this Act will  
2 align the two offenses as class B felonies.

3 The legislature further finds that the solicitation of a  
4 minor for prostitution statute needs clarification to ensure  
5 that the state of mind requirement does not apply to an  
6 undercover operation. As currently written, the statute has an  
7 unintended element of requiring proof that the offender knew the  
8 communication was with an undercover operative.

9 The purpose of this Act is to amend the offense of  
10 solicitation of a minor for prostitution by:

- 11 (1) Specifying that the act of offering or agreeing to any  
12 type of consideration in exchange for sexual conduct  
13 with a minor, rather than payment of a fee,  
14 constitutes solicitation of a minor;
- 15 (2) Changing the offense to a class B felony; and
- 16 (3) Clarifying that the offender's state of mind does not  
17 apply to a situation involving an undercover law  
18 enforcement officer.

19 SECTION 2. Section 712-1209.1, Hawaii Revised Statutes, is  
20 amended as follows:



1           1. By amending subsections (1) and (2) to read as follows:

2           "(1) A person eighteen years of age or older commits the  
3 offense of solicitation of a minor for prostitution if the  
4 person intentionally, knowingly, or recklessly offers or agrees  
5 to ~~[pay a fee]~~ provide any type of consideration to a minor or  
6 to a member of a police department, a sheriff, or a law  
7 enforcement officer who represents that person's self as a minor  
8 to engage in sexual conduct.

9           (2) Solicitation of a minor for prostitution is a class  
10 [E] B felony."

11           2. By amending subsection (5) to read as follows:

12           "(5) The state of mind requirement for this offense is not  
13 applicable to the fact that the person solicited was a minor[-]  
14 or a member of a police department, a sheriff, or law  
15 enforcement officer who represented that person's self as a  
16 minor. A person is strictly liable with respect to the  
17 attendant circumstance that the person solicited was a minor."

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




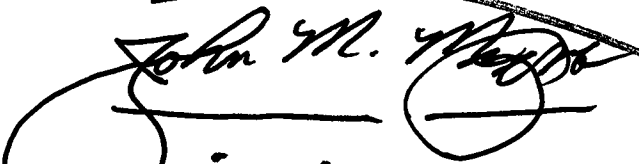




# H.B. NO. 2272

1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:   
  
  
  
  


JAN 21 2020



# H.B. NO. 2212

**Report Title:**

Solicitation of a Minor for Prostitution; Consideration; State of Mind

**Description:**

Amends the offense of solicitation of a minor for prostitution by specifying that the act of offering or agreeing to any type of consideration, rather than payment of a fee, constitutes solicitation of a minor. Makes solicitation of a minor a class B felony. Clarifies that the offender's state of mind is not required when the person solicited is a law enforcement officer who holds themselves out as a minor.

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

