
A BILL FOR AN ACT

RELATING TO SEX TRAFFICKING.

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

1 SECTION 1. Section 701-108, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) A prosecution for murder, murder in the first and
4 second degrees, attempted murder, and attempted murder in the
5 first and second degrees, criminal conspiracy to commit murder
6 in any degree, criminal solicitation to commit murder in any
7 degree, sexual assault in the first and second degrees, [and]
8 continuous sexual assault of a minor under the age of fourteen
9 years, and sex trafficking may be commenced at any time."

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: _____



BY REQUEST

JAN 21 2020

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H.B. NO. 229D

Report Title:

Statute of Limitations; Sex Trafficking

Description:

Removes the statute of limitations for sex trafficking offenses.

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JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO SEX TRAFFICKING.

PURPOSE: Removes the statute of limitations for sex trafficking offenses by adding the offense of sex trafficking to the list of offenses for which prosecution may be commenced at any time.

MEANS: Amend section 701-108, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 712-1202(1), HRS, defines the offense of sex trafficking as follows:

- (1) A person commits the offense of sex trafficking if the person knowingly:
 - (a) Advances prostitution by compelling or inducing a person by force, threat, fraud, or intimidation to engage in prostitution, or profits from such conduct by another; or
 - (b) Advances or profits from prostitution of a minor; provided that with respect to the victim's age, the prosecution shall be required to prove only that the person committing the offense acted negligently.

As a class A felony offense, the offense must be prosecuted within six years after it is committed. This statute of limitations applies, even when the sex trafficking involves a minor child or a person subjected to threats, intimidation, or other efforts to control or restrict the victim's behavior.

But while the egregious offense of sex trafficking is subject to a six year statute of limitations, other offenses are not restricted by such time limitations and may be prosecuted at any time. Section 701-108(1), HRS, provides:

A prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degrees, criminal conspiracy to commit murder in any degree, criminal solicitation to commit murder in any degree, sexual assault in the first and second degrees, and continuous sexual assault of a minor under the age of fourteen years may be commenced at any time.

There is no statute of limitations for sexual assault of a minor, but sex trafficking of a minor cannot be prosecuted after six years. This inconsistency in the law needs to be corrected.

The federal trafficking law, 18 U.S.C. § 1591, which criminalizes sex trafficking by force, fraud, coercion, or the sex trafficking of a minor, does not have a statute of limitation. See 18 U.S.C. § 3299.

Twenty-two states do not have a statute of limitations for sex trafficking or human trafficking of a minor.

The Office for Victims of Crime, Training and Technical Assistance Center, part of the U.S. Department of Justice, prepared a Human Trafficking Resource Paper that describes human trafficking as follows:

Human trafficking, modern-day slavery, is a crime against the world's most vulnerable individuals. Traffickers may abduct, deceive, use, and sell men,

women, and children for profit or personal gain. Victims are treated as commodities who often endure physical and/or sexual brutality, exploitation, and mental and emotional abuse. As a result of this trauma, victims may experience multiple, long-lasting consequences.

This bill focuses on sex trafficking, where a person is induced to engage in prostitution through force, fraud, or coercion or a minor is subjected to prostitution. Sex trafficking victims are both U.S. citizens and foreign nationals. Sex trafficking has no geographic boundaries or demographic restrictions. The Human Trafficking Resource Paper notes:

In many cases trafficking victims are exploited by people known to them - neighbors, distant relatives, boyfriends, lovers, or fiancés - who build on trusting relationships in order to gain control of the victim. Labor and sex trafficking victims are often told that if they try to escape, their families will be harmed. The traffickers instill fear in victims with threats of deportation, law enforcement harm, personal exposure, and other punishments.

Sex trafficking victims who are from foreign countries must also deal with language barriers and cultural differences. Often such victims have a distrust of authority and law enforcement.

For all of these reasons, many sex trafficking victims, whether adults or children, do not identify themselves as victims or are unable to disclose the victimization until much later, when they have been removed from the life of the trafficker, and have received extensive counseling or other trauma services.

By eliminating the statute of limitations for sex trafficking, this measure recognizes the numerous issues faced by sex trafficking victims and provides the time it takes for them to work through those issues, to understand their victimization, and develop the strength and courage to report the trafficking. Additionally, it recognizes that human sexual slavery is a heinous crime that exploits the most vulnerable people in the U.S. and abroad.

Impact on the public: None.

Impact on the department and other agencies: It will enable law enforcement agencies more time to develop sex trafficking cases and initiate prosecutions.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of the Attorney General and county police and prosecutors.

EFFECTIVE DATE: Upon approval.