

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO PROSTITUTION.

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

1           SECTION 1. Ensuring the health, safety, and well-being of  
2 people in Hawaii, including sex workers, is a priority of the  
3 State. However, current statutes relating to prostitution often  
4 cause harm to people without the justification of a clear public  
5 purpose. The mere fact that some members of the community may  
6 be morally offended by the existence of prostitution should not  
7 be an excuse to criminalize private consensual conduct engaged  
8 in by adults.

9           To address these problems, this Act repeals and clarifies a  
10 series of statutes relating to prostitution, with an aim to  
11 remove criminal sanctions against acts of consenting adults,  
12 allow for a limited county authority to regulate public  
13 activities relating to prostitution, and amend and remove  
14 language that could create major felony exposure for those  
15 committing lesser crimes. This includes clarifying various  
16 crimes involving minors that were written to protect young  
17 people from exploitive adults, not to criminalize the behavior



1 of minors who are not in an exploitative relationship. The  
2 statutes have been reworded to approximate the crime of  
3 statutory rape.

4 Further, this Act broadly amends existing statutes to allow  
5 clearer means of dealing with sex trafficking and the abuse of  
6 minors without creating new harms and violating the rights to  
7 liberty as outlined in the Hawaii State Constitution.

8 SECTION 2. Section 712-1200, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§712-1200 Prostitution. (1) A person [~~commits the~~  
11 ~~offense~~] engages in the act of prostitution if the person:

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

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

16 (2) As used in this section:

17 "Minor" means a person who is less than eighteen years of  
18 age.

19 "Sexual conduct" means "sexual penetration", "deviate  
20 sexual intercourse", or "sexual contact", as those terms are



1 defined in section 707-700, or "sodomasochistic abuse" as  
2 defined in section 707-752.

3 (3) Prostitution is [~~a petty misdemeanor;~~] not an offense  
4 under this part; provided that [+]

5 [~~(a) If the person who commits the offense under subsection~~  
6 ~~(1)(a) is a minor, prostitution is a violation; and~~  
7 ~~(b) If the person who commits the offense under subsection~~  
8 ~~(1)(b) does so in reckless disregard of the fact that~~  
9 ~~the other person is a victim of sex trafficking,~~  
10 ~~prostitution is a class C felony.]~~

11 the persons engaging in the sexual conduct are not minors;  
12 provided further that if the person engaging in prostitution  
13 pursuant to subsection (1) is a minor, prostitution is an  
14 offense pursuant to this part.

15 [~~(4) A person convicted of committing the offense of~~  
16 ~~prostitution as a petty misdemeanor shall be sentenced as~~  
17 ~~follows:~~

18 ~~(a) For the first offense, when the court has not deferred~~  
19 ~~further proceedings pursuant to chapter 853, a fine of~~  
20 ~~not less than \$500 but not more than \$1,000 and the~~  
21 ~~person may be sentenced to a term of imprisonment of~~



1 ~~not more than thirty days or probation, provided that~~  
2 ~~in the event the convicted person defaults in payment~~  
3 ~~of the fine, and the default was not contumacious, the~~  
4 ~~court may sentence the person to perform services for~~  
5 ~~the community as authorized by section 706 605(1).~~  
6 ~~(b) For any subsequent offense, a fine of not less than~~  
7 ~~\$500 but not more than \$1,000 and a term of~~  
8 ~~imprisonment of thirty days or probation, without~~  
9 ~~possibility of deferral of further proceedings~~  
10 ~~pursuant to chapter 853 and without possibility of~~  
11 ~~suspension of sentence.~~  
12 ~~(c) For the purpose of this subsection, if the court has~~  
13 ~~deferred further proceedings pursuant to chapter 853,~~  
14 ~~and notwithstanding any provision of chapter 853 to~~  
15 ~~the contrary, the defendant shall not be eligible to~~  
16 ~~apply for expungement pursuant to section 831 3.2~~  
17 ~~until four years following discharge. A plea~~  
18 ~~previously entered by a defendant under section 853 1~~  
19 ~~for a violation of this section shall be considered a~~  
20 ~~prior offense. When the court has ordered a sentence~~  
21 ~~of probation, the court may impose as a condition of~~



1           ~~probation that the defendant complete a course of~~  
 2           ~~prostitution intervention classes; provided that the~~  
 3           ~~court may only impose the condition for one term of~~  
 4           ~~probation.~~

5           ~~(5)]~~ (4) This section shall not apply to any member of a  
 6 police department, a sheriff, or a law enforcement officer  
 7 acting in the course and scope of duties, unless engaged in  
 8 sexual [~~penetration or sadomasochistic abuse.~~] conduct, as  
 9 defined in this section, which shall be subject to the  
 10 applicable provisions under chapter 707.

11           ~~[(6)]~~ (5) A minor may be taken into custody by any police  
 12 officer without order of the judge when there are reasonable  
 13 grounds to believe that the minor has violated [~~+~~]subsection[~~+~~]  
 14 (1) [~~-(a)~~]. The minor shall be released, referred, or transported  
 15 pursuant to section 571-31(b). The minor shall be subject to  
 16 the jurisdiction of the family court pursuant to section  
 17 571-11(1), including for the purposes of custody, detention,  
 18 diversion, and access to services and resources."

19           SECTION 3. Section 712-1201, Hawaii Revised Statutes, is  
 20 amended by amending subsection (1) to read as follows:



1           "(1) A person "advances prostitution" if, acting other  
2 than as a prostitute or a patron of a prostitute, the person  
3 knowingly causes or aids a person to commit or engage in  
4 prostitution, procures or solicits patrons for prostitution,  
5 provides persons for prostitution purposes, permits premises to  
6 be regularly used for prostitution purposes, operates or assists  
7 in the operation of a house of prostitution or a prostitution  
8 enterprise, harms or abuses a prostitute, or engages in any  
9 other conduct designed to institute, aid, or facilitate an act  
10 or enterprise of prostitution."

11           SECTION 4. Section 712-1202, Hawaii Revised Statutes, is  
12 amended as follows:

13           1. By amending subsection (1) to read:

14           "(1) A person commits the offense of sex trafficking if  
15 the person [~~knowingly~~]:

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

20           (b) [~~Advances~~] Is over the age of eighteen and knowingly  
21 advances or profits from prostitution of a [~~minor~~]



1            person under the age of sixteen; provided that with  
2            respect to the victim's age, the prosecution shall be  
3            required to prove only that the person committing the  
4            offense acted negligently."

5            2. By amending subsection (3) to read:

6            "(3) As used in this section:

7            "Fraud" means making material false statements,  
8            misstatements, or omissions.

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

11           "Threat" means any of the actions listed in section  
12           707-764(1)."

13           SECTION 5. Section 712-1203, Hawaii Revised Statutes, is  
14           amended to read as follows:

15           "**§712-1203 Promoting prostitution.** (1) A person commits  
16           the offense of promoting prostitution if the person knowingly  
17           advances or profits from prostitution[-] of a minor.

18           (2) Promoting prostitution is a class B felony[-] if  
19           committed by a person who is twenty-one years or older.



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1        (3) Promoting prostitution is a class C felony if  
2 committed by a person who is under the age of twenty-one and who  
3 is five or more years older than the minor victim."

4        SECTION 6. Section 712-1207, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        **"§712-1207 Street solicitation of prostitution; designated**  
7 **areas. (1) [It] A county may petition the court to establish**  
8 **designated areas where it shall be unlawful for any person**  
9 **within the boundaries of [Waikiki] the designated areas and**  
10 **while on any public property to:**

- 11        (a) Offer or agree to engage in sexual conduct with  
12                another person in return for a fee; or  
13        (b) Pay, agree to pay, or offer to pay a fee to another  
14                person to engage in sexual conduct.

15        ~~[(2) It shall be unlawful for any person within the~~  
16 ~~boundaries of other areas in this State designated by county~~  
17 ~~ordinance pursuant to subsection (3), and while on any public~~  
18 ~~property to:~~

- 19        ~~(a) Offer or agree to engage in sexual conduct with~~  
20                ~~another person in return for a fee; or~~





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

3       ~~(3)] (2) [Upon a recommendation of the chief of police of~~  
4       ~~a county, that county may enact an ordinance that:]~~ The court  
5       shall hold a hearing to consider the county's petition. The  
6       court shall make reasonable efforts to identify advocates for  
7       sex workers and consider any arguments they present in  
8       opposition to or with advice on the county petition before  
9       making its ruling. The county's petition shall:

10       (a) ~~[Designates]~~ Designate areas, each no larger than  
11           three square miles, as zones of significant  
12           prostitution-related activity that is detrimental to  
13           the health, safety, or welfare of the general public;  
14           or

15       (b) ~~[Alters]~~ Alter the boundaries of any existing area  
16           under paragraph (a);  
17       provided that not more than four areas may be designated within  
18       the State.

19       ~~(4)] (3) Notwithstanding any law to the contrary, any~~  
20       person violating this section shall be ~~[guilty of a petty~~  
21       ~~misdemeanor and shall be sentenced to a mandatory term of thirty~~



1 ~~days imprisonment. The term of imprisonment shall be imposed~~  
2 ~~immediately, regardless of whether the defendant appeals the~~  
3 ~~conviction, except as provided in subsection (5).] subject to a~~  
4 civil fine in the amount of \$500.

5       ~~[-(5)]~~ (4) As an option to the ~~[mandatory term of thirty~~  
6 ~~days imprisonment,]~~ civil fine, if the court finds the option is  
7 warranted based upon the defendant's record, the court may place  
8 the defendant on probation for a period not to exceed six  
9 months, subject to the mandatory condition that the defendant  
10 observe geographic restrictions that prohibit the defendant from  
11 entering or remaining on public property [~~in Waikiki~~] and other  
12 areas in the State designated by county ordinance during the  
13 hours from 6 p.m. to 6 a.m. Upon any violation of the  
14 geographic restrictions by the defendant, the court, after  
15 hearing, ~~[shall]~~ may revoke the defendant's probation and  
16 ~~[immediately]~~ impose ~~[the mandatory]~~ a thirty-day term of  
17 imprisonment. ~~[Nothing contained in this subsection shall be~~  
18 ~~construed as prohibiting the imposition of stricter geographic~~  
19 ~~restrictions under section 706-624(2)(h).~~

20       ~~-(6)]~~ (5) Any person charged under this section may be  
21 admitted to bail, pursuant to section 804-4, subject to the



1 mandatory condition that the person observe geographic  
2 restrictions that prohibit the defendant from entering or  
3 remaining on public property [~~, in Waikiki and other~~] within  
4 areas in the State designated by county ordinance during the  
5 hours from 6 p.m. to 6 a.m. [~~Notwithstanding any other~~  
6 ~~provision of law to the contrary, any person who violates these~~  
7 ~~bail restrictions shall have the person's bail revoked after~~  
8 ~~hearing and shall be imprisoned forthwith. Nothing contained in~~  
9 ~~this subsection shall be construed as prohibiting the imposition~~  
10 ~~of stricter geographic restrictions under section 804 7.1.]~~

11 [~~(7)~~] (6) Notwithstanding any other law to the contrary, a  
12 police officer, without warrant, may arrest any person when the  
13 officer has probable cause to believe that the person has  
14 committed a violation of subsection (4) or (5) [~~or (6)~~], and the  
15 person [~~shall~~] may be detained [~~, without bail,~~] until the  
16 hearing under the appropriate subsection can be held, which  
17 hearing shall be held as soon as reasonably practicable.

18 [~~(8)~~] (7) For purposes of this section:

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



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

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

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

9 ~~(9)] (8) This section shall apply to all counties [7  
10 provided that if a county enacts an ordinance to regulate street  
11 solicitation for prostitution, other than an ordinance  
12 designating an area as a zone of significant prostitution-  
13 related activity, the county ordinance shall supersede this  
14 section and no person shall be convicted under this section in  
15 that county].~~

16 (9) This section shall not apply to any member of a police  
17 department, a sheriff, or law enforcement officer acting in the  
18 course and scope of duties, unless engaged in sexual conduct as  
19 defined in section 712-1200(2)."

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



1           "§712-1209.1 Solicitation of a minor for prostitution.

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

8           (2) ~~[Solicitation of]~~ A person twenty-one years or older  
9 commits the offense of solicitation if the person intentionally,  
10 knowingly, or recklessly offers or agrees to pay a fee to a  
11 [minor] person under the age of sixteen for prostitution [is a  
12 class C felony].

13           (3) A person under the age of twenty-one commits the  
14 offense of solicitation if the person intentionally, knowingly,  
15 or recklessly offers or agrees to pay a fee to a minor five or  
16 more years younger than the soliciting party.

17           ~~[-(3)] (4) [A person convicted of committing the offense of~~  
18 ~~solicitation of a minor for prostitution shall be imposed a fine~~  
19 ~~of not less than \$5,000; provided that \$5,000 of the imposed~~  
20 ~~fine shall be credited to the general fund.] Solicitation of a~~  
21 minor is a class C felony.



1           ~~[(4)]~~ (5) This section shall not apply to any member of a  
2 police department, a sheriff, or a law enforcement officer who  
3 offers or agrees to pay a fee to a minor while acting in the  
4 course and scope of duties~~[-]~~, unless engaged in sexual conduct  
5 as defined in section 712-1200(2).

6           ~~[(5)]~~ (6) The state of mind requirement for this offense  
7 is not applicable to the fact that the person solicited was a  
8 minor. A person is strictly liable with respect to the  
9 attendant circumstance that the person solicited was a minor.

10           ~~[(6)]~~ (7) For purposes of this section:

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

13           "Sexual conduct" has the same meaning as in section  
14 712-1200(2)."

15           SECTION 8. Section 712-1209.6, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "**§712-1209.6 Prostitution; motion to vacate conviction.**

18           (1) ~~[A person convicted of committing the offense of~~  
19 ~~prostitution under section 712-1200, loitering for the purpose~~  
20 ~~of engaging in or advancing prostitution under section 712-1206,~~  
21 ~~street solicitation of prostitution in designated areas under~~



1 ~~section 712-1207, or convicted of a lesser offense when~~  
2 ~~originally charged with a violation of section 712-1200, 712-~~  
3 ~~1206, or 712-1207, may file a motion to vacate the conviction if~~  
4 ~~the defendant's participation in the offense was the result of~~  
5 ~~the person having been a victim of:~~

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

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

10 All convictions for violations under sections 712-1200,  
11 712-1208, 712-1209, and 712-1209.5 shall be vacated by the  
12 appropriate court. All open cases, outstanding warrants, and  
13 any other issues related to these sections are moot as of the  
14 effective date of this section.

15 (2) ~~[A motion filed under this section shall:~~

16 ~~(a) Be in writing;~~

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

18 ~~(c) Be made within six years after the date that the~~  
19 ~~person ceases to be a victim as described in~~

20 ~~subsection (1), subject to reasonable concerns for the~~  
21 ~~safety of the defendant, family members of the~~



1 ~~defendant, or other victims of the trafficking that~~  
2 ~~may be jeopardized by the bringing of a motion, or for~~  
3 ~~other reasons consistent with the purpose of this~~  
4 ~~section;~~

5 ~~(d) Describe all the grounds and evidence for vacation of~~  
6 ~~a conviction which are available to the petitioner and~~  
7 ~~of which the petitioner has or by the exercise of~~  
8 ~~reasonable diligence should have knowledge, and~~  
9 ~~provide copies of any official documents showing that~~  
10 ~~the defendant is entitled to relief under this~~  
11 ~~section; and~~

12 ~~(e) Be subject to the review and written approval of the~~  
13 ~~state agency or county prosecutor responsible for~~  
14 ~~prosecuting the offense that is the subject of the~~  
15 ~~motion to vacate conviction.~~

16 Convictions under section 712-1207 may be vacated by petitioning  
17 to the appropriate court. These shall be granted if the  
18 applicant has no subsequent convictions or is under no current  
19 investigation for criminal charges, and a period of twelve  
20 months has elapsed since the conviction, during which no





1 additional criminal charges have been filed or convictions have  
2 been entered against the petitioner.

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

8 ~~(4) If the court grants a motion filed under this section,~~  
9 ~~the court shall vacate the conviction.~~

10 ~~(5) A person making a motion to vacate pursuant to this~~  
11 ~~section has the burden of proof by a preponderance of the~~  
12 ~~evidence.~~

13 ~~(6) This section shall not apply to a motion to vacate a~~  
14 ~~conviction under this chapter for:~~

- 15 ~~(a) Sex trafficking under section 712-1202;~~
- 16 ~~(b) Promoting prostitution under section 712-1203; or~~
- 17 ~~(c) A person who pays, agrees to pay or offers a fee to~~  
18 ~~another person to engage in sexual conduct.] "~~

19 SECTION 9. Section 804-4, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "§804-4 When a matter of right. (a) If the charge is for  
2 an offense for which bail is allowable under section 804-3, the  
3 defendant may be admitted to bail before conviction as a matter  
4 of right. [~~Except for section 712-1207(7), bail shall be~~  
5 ~~allowed for any person charged under section 712-1207 only~~  
6 ~~subject to the mandatory condition that the person observe~~  
7 ~~geographic restrictions that prohibit the defendant from~~  
8 ~~entering or remaining on public property, in Waikiki and other~~  
9 ~~areas in the State designated by county ordinance during the~~  
10 ~~hours from 6 p.m. to 6 a.m., and provided further that nothing~~  
11 ~~contained in this subsection shall be construed as prohibiting~~  
12 ~~the imposition of stricter geographic restrictions under section~~  
13 ~~804-7.1.] The right to bail shall continue after conviction of  
14 a misdemeanor, petty misdemeanor, or violation, and release on  
15 bail may continue, in the discretion of the court, after  
16 conviction of a felony until the final determination of any  
17 motion for a new trial, appeal, habeas corpus, or other  
18 proceedings that are made, taken, issued, or allowed for the  
19 purpose of securing a review of the rulings, verdict, judgment,  
20 sentence, or other proceedings of any court or jury in or by~~



1 which the defendant has been arraigned, tried, convicted, or  
2 sentenced; provided that:

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

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

10 ~~(3) No bail shall be allowed pending appeal of a~~  
11 ~~conviction for a violation of section 712-1207, unless~~  
12 ~~the court finds, based on the defendant's record, that~~  
13 ~~the defendant may be admitted to bail subject to the~~  
14 ~~mandatory condition that the person observe geographic~~  
15 ~~restrictions that prohibit the defendant from entering~~  
16 ~~or walking along the public streets or sidewalks of~~  
17 ~~Waikiki or other areas in the State designated by~~  
18 ~~county ordinance pursuant to section 712-1207 during~~  
19 ~~the hours from 6 p.m. to 6 a.m].~~

20 Notwithstanding any other provision of law to the contrary, any  
21 person who violates these bail restrictions shall have the



1 person's bail revoked after hearing and shall be imprisoned  
2 forthwith.

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

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

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

13 If the court makes these findings, the court shall order the  
14 release of the person in accordance with section 804-7.1. No  
15 defendant entitled to bail, whether bailed or not, shall be  
16 subject, without the defendant's written consent, to the  
17 operation of any sentence passed upon the defendant, while any  
18 proceedings to procure a review of any action of the trial court  
19 or jury in the premises are pending and undetermined, except as  
20 provided in section 641-14(a) [~~or section 712-1207~~]."



1 SECTION 10. Section 806-83, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) 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); or
- 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)]~~ (X) Solicitation of a minor for prostitution under  
4                           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 12. 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 13. Section 712-1208, Hawaii Revised Statutes, is  
20 repealed.



# S.B. NO. 783

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

6           ~~(2) "Travel services" has the same meaning as in section~~  
7 ~~468L-1.~~

8           ~~(3) Promoting travel for prostitution is a class C~~  
9 ~~felony."~~

10           SECTION 14. Section 712-1209, Hawaii Revised Statutes, is  
11 repealed.

12           ~~["§712-1209] Solicitation of prostitution near schools or~~  
13 ~~public parks. (1) A person commits the offense of solicitation~~  
14 ~~of prostitution near schools or public parks if, within seven~~  
15 ~~hundred fifty feet of a school or public park, the person offers~~  
16 ~~or agrees to pay a fee to another person to engage in sexual~~  
17 ~~conduct.~~

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

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

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



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

3       SECTION 15. Section 712-1209.5, Hawaii Revised Statutes,  
4 is repealed.

5       ~~["§712-1209.5] Habitual solicitation of prostitution.~~

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

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

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

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

17       ~~(c) Habitual solicitation of prostitution, in violation of~~  
18 ~~this section;~~

19       ~~(d) An offense of any other jurisdiction that is~~  
20 ~~comparable to one of the offenses in paragraph (a);~~

21       ~~(b), or (c); or~~





# S.B. NO. 783

**Report Title:**

Prostitution; Solicitation; Penalties; Vacate Conviction; Repeal

**Description:**

Repeals the penalties for consensual adult prostitution and promotion of adult prostitution. Vacates convictions for decriminalized conduct. Makes clarifying and conforming amendments.

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

