

JAN 26 2022

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# A BILL FOR AN ACT

RELATING TO HUMAN TRAFFICKING.

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

1       SECTION 1. The legislature finds that globally, an  
2       estimated twenty-seven million people are in slavery. The  
3       estimated total market value of illegal human trafficking is  
4       \$32,000,000,000. The International Labor Organization has  
5       reported that child workers, minorities, and irregular migrants  
6       are at considerable risk of more extreme forms of exploitation.  
7       The legislature also finds that individuals in the State  
8       are vulnerable to human trafficking and the closely related  
9       phenomenon of commercial sexual exploitation. According to a  
10      January 2020 report on sex trafficking in Hawaii authored by  
11      researchers from Arizona State University and the Hawaii state  
12      commission on the status of women, 26.7 per cent, or one in  
13      four, of several hundred clients served by Child and Family  
14      Service across five islands during a three-month period in 2019  
15      reported being sex trafficked. Two key points reported were  
16      that sixty-four per cent of the ninety-seven sex trafficked  
17      individuals were of native Hawaiian ethnicity and twenty-three



1 per cent of the sex trafficked individuals identified as male.  
2 Other key findings highlighted the severity of the problem and  
3 the urgent need to combat human trafficking in Hawaii. For  
4 example, more than one-quarter of the sex trafficked individuals  
5 reported that their sex trafficker was a family member. The age  
6 of victims at their first sex trafficking experience ranged from  
7 four to fifty-five years old. Of the sex trafficked individuals  
8 who were first trafficked when under the age of eighteen, the  
9 average victim age at the first sex trafficking experience was  
10 11.3 years old. The most common reasons identified by victims  
11 for their forced or coerced participation in sex trafficking  
12 were drugs, money, and shelter, with all three reasons being  
13 nearly equal in prevalence.

14 The legislature recognizes that the adverse impacts of  
15 human trafficking are far-reaching and cause harm to individuals  
16 and their families, communities, and societies. Trafficked  
17 individuals are often denied educational opportunities, which  
18 limits their potential to contribute economically as part of the  
19 workforce. Further, the illegal activity generated by human  
20 trafficking diverts moneys that otherwise may have contributed



1 to the growth of legitimate businesses or supported legally  
2 employed workers.

3 The negative consequences of human trafficking also impact  
4 the healthcare sector and contribute to rising healthcare costs.  
5 The trauma inflicted on a trafficking victim often affects the  
6 victim's friends and family members. The costs of medical  
7 treatment and rehabilitation for victims place additional  
8 burdens on individuals, medical professionals, insurers, and  
9 healthcare systems. Viewed in this light, directing resources  
10 toward the abolishment of human trafficking is both a moral  
11 obligation and fiscal responsibility.

12 Accordingly, the purpose of this Act is to:

- 13 (1) Require the department of human services to develop,  
14 and certain businesses and establishments to post, a  
15 notice containing information about the National Human  
16 Trafficking Hotline;
- 17 (2) Require the department of the attorney general to  
18 establish a statewide coordinator and program within  
19 the department to address the needs of victims of  
20 human trafficking;



- 1           (3) Require the department of the attorney general to  
2           submit reports to the legislature on the State's  
3           efforts to address human trafficking and the  
4           commercial sexual exploitation of children;
- 5           (4) Require the children's justice program of the  
6           judiciary to coordinate the investigation and case  
7           management of child trafficking cases, including cases  
8           involving the commercial sexual exploitation of  
9           children;
- 10          (5) Specify that court-ordered restitution for a victim of  
11          labor trafficking may include the cost of necessary  
12          rehabilitation for the victim, including medical,  
13          psychiatric, and psychological care and treatment;
- 14          (6) Require a person convicted of sex trafficking to  
15          forfeit assets from trafficking activity and require  
16          that the assets first be used to pay any restitution  
17          owed or damages awarded to the trafficking victim; and
- 18          (7) Provide a process for victims of certain offenses  
19          involving human trafficking to petition to have their  
20          criminal record expunged.



SECTION 2. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**"§ - Human trafficking; posting of notice required.**

(a) Each of the businesses and other establishments specified below, upon the availability of the model notice described in subsection (c), shall post in a conspicuous place, near the public entrance of the business or establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted, a notice that complies with the requirements of this section:

- (1) Establishments possessing a liquor license that is described in section 281-31;
- (2) Bus stations;
- (3) Emergency rooms within general acute care hospitals;
- (4) Urgent care centers;
- (5) Privately operated job recruitment centers;
- (6) Boardinghouses, hotels, lodging or tenement houses, group homes, group residences, group living arrangements, and rooming houses, as defined in section 445-90; and



1        (7) Businesses or establishments that are licensed to  
2        offer massage or bodywork services in return for  
3        compensation.

4        (b) The notice required to be posted pursuant to  
5        subsection (a) shall be at least eight and one-half inches by  
6        eleven inches in size, written in a sixteen-point font or  
7        larger, and shall include the following statements:

8        (1) "If you or someone you know is being forced to engage  
9        in any activity and cannot choose to leave--whether  
10       the activity involves commercial sex, housework, farm  
11       work, construction, factory, retail, or restaurant  
12       work, or another form of forced labor--call the  
13       National Human Trafficking Hotline at 1-888-373-7888  
14       or send a text message to 233733 to access their help  
15       and services.";

16       (2) "Victims of slavery and human trafficking are  
17       protected under United States and Hawaii law."; and

18       (3) "The toll-free phone and text lines are available 24  
19       hours a day, 7 days a week, 365 days a year. The  
20       hotline can provide help, referral to services,  
21       training, and general information. Help is available



1           in more than 200 languages. The hotline is operated  
2           by a non-profit, non-governmental organization.  
3           Communications with the hotline are anonymous and  
4           confidential.".

5           (c) No later than January 1, 2023, the department of human  
6           services shall develop a model notice that complies with the  
7           requirements of this section and shall make the model notice  
8           available for download on the department's website.

9           (d) A business or establishment that fails to comply with  
10          the requirements of this section shall be subject to a civil  
11          penalty of \$500 for a first offense and \$1,000 for each  
12          subsequent offense.

13          (e) A state or county agency may bring an enforcement  
14          action against a business or establishment that the agency is  
15          authorized to regulate, and if the following conditions are met:

16          (1) The agency provided the business or establishment with  
17               reasonable notice of noncompliance and specified that  
18               the business or establishment is subject to the  
19               applicable civil penalty if the violation is not  
20               corrected within thirty days from the date that notice  
21               was provided; and



1        (2) The agency verified that the business or establishment  
2        failed to correct the violation with the thirty-day  
3        period described in paragraph (1)."

4        SECTION 3. Chapter 28, Hawaii Revised Statutes, is amended  
5        by adding a new part to be appropriately designated and to read  
6        as follows:

7        **"PART       .   HUMAN TRAFFICKING STATEWIDE COORDINATOR AND PROGRAM**

8        **§28-       Definitions.** As used in this part:

9        "Child" means a person under eighteen years of age.

10       "Commercial sexual exploitation of children" means any  
11       sexual activity involving a child for the exchange or promise of  
12       anything of value by any person.

13       "Department" means the department of the attorney general.

14       "Human trafficking" includes "severe forms of trafficking  
15       in persons", as defined in title 22 United States Code section  
16       7102(11), and "sex trafficking", as set forth in section 712-1202  
17       and as defined in title 22 United States Code section 7102(12).

18       "Statewide coordinator" means the statewide coordinator on  
19       human trafficking established in this part.

20       **§28-       Human trafficking statewide coordinator and**  
21       **program.** (a) The attorney general shall appoint a statewide





1 coordinator on human trafficking for the proper administration  
2 and enforcement of this chapter without regard to chapter 76.

3 (b) The department shall develop and implement a program  
4 to prevent and to assist victims of human trafficking that  
5 shall:

6 (1) Assess the current needs of the State's  
7 anti-trafficking response and develop:

8 (A) A statewide strategy to prevent human  
9 trafficking; and

10 (B) A plan to provide increased support and  
11 assistance to victims of the commercial sexual  
12 exploitation of children and victims of human  
13 trafficking;

14 (2) Implement statewide strategies to address offender  
15 accountability through law enforcement efforts,  
16 prosecutions, and crime prevention efforts;

17 (3) Promote public awareness of:

18 (A) Human trafficking and the commercial sexual  
19 exploitation of children;

20 (B) The availability of services for victims of human  
21 trafficking; and



1 (C) The availability of state and national hotlines  
2 for victims and witnesses;

3 (4) Produce and maintain informational materials,  
4 including a website, on the prevention of human  
5 trafficking and the commercial sexual exploitation of  
6 children, and on the availability of public resources  
7 for victims and witnesses;

8 (5) Develop and provide comprehensive training on ways to  
9 prevent, identify, and address human trafficking and  
10 the commercial sexual exploitation of children; and

11 (6) Apply for and monitor federal funding for  
12 anti-trafficking efforts.

13 (c) The department shall submit a report to the  
14 legislature no later than twenty days prior to the convening of  
15 the regular session of 2023 on the State's efforts to address  
16 the commercial sexual exploitation of children; and shall submit  
17 a report to the legislature no later than twenty days prior to  
18 the convening of the regular session of 2024 on the State's  
19 efforts to address human trafficking. Each report shall  
20 include:



- 1 (1) Plans to assist local and state agencies in
- 2 identifying and responding to victims;
- 3 (2) Best practices used in other states to identify and
- 4 assist victims;
- 5 (3) A comprehensive evaluation of applicable programs and
- 6 services currently offered by the State;
- 7 (4) Strategies for public outreach and education;
- 8 (5) An assessment of barriers that inhibit law enforcement
- 9 agencies, service providers, government agencies, and
- 10 non-governmental organizations in the State from
- 11 supporting victims and holding offenders accountable;
- 12 (6) A review of criminal statutes in chapter 712 on
- 13 prostitution and sex trafficking;
- 14 (7) Plans for a training program for educators, community
- 15 members, members of law enforcement agencies, and
- 16 mandatory reporters of child abuse, including an
- 17 outline of the training content and an assessment of
- 18 the need for mandatory training and, if needed,
- 19 appropriate intervals therefor;



1       (8)    Statewide assessment tools for use by first  
2            responders, medical professionals, and service  
3            providers to identify victims;

4       (9)    Plans for prevention strategies that mitigate the risk  
5            factors for victims and offenders;

6       (10)   Recommendations for enhancing statewide collaboration  
7            and coordination through multidisciplinary teams,  
8            committees, and task forces;

9       (11)   An analysis of existing data regarding trafficking,  
10            which may include the following:

11       (A)    Data specific to the commercial sexual  
12            exploitation of children, including:

13            (i)   The number of reports to state and national  
14            hotlines alleging the sexual trafficking of  
15            a child;

16            (ii)   The total number of children suspected to be  
17            victims of sex trafficking, including  
18            demographic information and information on  
19            whether each child was previously served by  
20            the department or by the department of human  
21            services;



1 (iii) The total number of children confirmed to be  
2 victims of sex trafficking, including  
3 demographic information and information on  
4 whether each child was previously served by  
5 the department or by the department of human  
6 services;

7 (iv) Data collected by state-contracted  
8 providers, including the types and aggregate  
9 costs of services provided to children who  
10 are suspected or confirmed victims of sex  
11 trafficking, the number of children  
12 receiving each type of service, and the  
13 total number of new children and families  
14 served through these providers; and

15 (v) The number of prosecutions and convictions  
16 in the State, delineated by county, for  
17 crimes related to human trafficking or the  
18 commercial sexual exploitation of children;

19 (B) Data specific to sex and labor trafficking;

20 (C) The identification of any gaps in the State's  
21 ability to collect data; and



(D) Recommendations for improving data collection and data sharing among service providers, non-governmental organizations, and government agencies, including law enforcement agencies; and

(12) Any proposed legislation.

(d) The department may submit additional reports to the legislature providing data, status updates, and recommendations, as determined by the department.

(e) Every public official and state and county department shall render all necessary assistance and cooperation within their respective jurisdictional power to share information and to assist the program in carrying out its duties under this part."

SECTION 4. Section 588-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The purpose of the program shall be to:

(1) Develop, achieve, and maintain interagency and interprofessional cooperation and coordination in the investigation ~~[of]~~ and case management of ~~[intrafamilial and extrafamilial]~~ child sex abuse ~~[and]~~, serious physical child abuse, and child



1           trafficking cases[+], including cases involving the  
2           commercial sexual exploitation of children;

3           (2) Facilitate in an impartial manner the professional  
4           gathering of information by public and private  
5           agencies and their providers for court proceedings  
6           involving child victims and witnesses;

7           (3) Reduce to the absolute minimum the number of  
8           interviews of child sex abuse and child trafficking  
9           victims so as to minimize revictimization of the  
10          child;

11          (4) Coordinate the therapeutic and treatment program for  
12          child sex abuse and child trafficking victims and  
13          their families;

14          (5) Provide for a multidisciplinary team and case  
15          management approach [~~which~~] that is focused first, on  
16          the alleged or suspected child sex abuse or child  
17          trafficking victim's needs and conditions; second, on  
18          the family members who are supportive of the child and  
19          whose interests are consistent with the best interests  
20          of the child; and third, on law enforcement and  
21          prosecutorial needs;



1 (6) Provide for the training and continuing education of  
2 skilled professional interviewers of child sex abuse  
3 and child trafficking victims; and

4 (7) Serve as the focus of information and referral for  
5 child sex abuse and child trafficking programs."

6 SECTION 5. Section 707-785, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8 "(1) In addition to any other penalty, and notwithstanding  
9 a victim's failure to request restitution under section  
10 706-646(2), the court shall order restitution to be paid to the  
11 victim, consisting of an amount that is the greater of:

12 (a) The total gross income or value to the defendant of  
13 the victim's labor or services; [~~or~~]

14 (b) The value of the victim's labor or services, as  
15 guaranteed under the minimum wage provisions of  
16 chapter 387 or the Fair Labor Standards Act of 1938,  
17 Public Law 75-718, title 29 United States Code  
18 sections 201 through 219, inclusive, whichever is  
19 greater[~~-~~]; or





1        (c) The amount equal to the cost of necessary  
2        rehabilitation for the victim, including medical,  
3        psychiatric, and psychological care and treatment."

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

6        "**§712-1202 Sex trafficking.** (1) A person commits the  
7        offense of sex trafficking if the person knowingly:

8        (a) Advances prostitution by compelling or inducing a  
9        person by force, threat, fraud, coercion, or  
10        intimidation to engage in prostitution, or profits  
11        from such conduct by another; or

12        (b) Advances prostitution or profits from prostitution of  
13        a minor.

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

15        (3) As used in this section:

16        "Fraud" means making material false statements,  
17        misstatements, or omissions.

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

20        "Threat" means any of the actions listed in section  
21        707-764(1).



1           (4) The state of mind requirement for the offense under  
2 subsection (1)(b) is not applicable to the fact that the victim  
3 was a minor. A person is strictly liable with respect to the  
4 attendant circumstances that the victim was a minor.

5           (5) Notwithstanding chapter 712A and any other law to the  
6 contrary, a person convicted of the offense of sex trafficking  
7 shall forfeit any profits, proceeds, and interests in property  
8 that the person has acquired or maintained as a result of  
9 committing the trafficking, as determined by the court. The  
10 assets forfeited shall first be used to pay any restitution owed  
11 to the trafficking victim and subsequently to pay any damages  
12 awarded to the trafficking victim in a civil action. Any  
13 remaining assets shall be used to reimburse the appropriate  
14 state or county agencies that conducted the investigation and  
15 prosecution; provided that any assets remaining after  
16 reimbursement shall be liquidated and deposited to the general  
17 fund."

18           SECTION 7. Section 712-1209.6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           **"§712-1209.6 Prostitution; motion to vacate conviction[-];**  
21 **petition to expunge record.** (1) A person convicted of



1 committing the offense of prostitution under section 712-1200,  
2 loitering for the purpose of engaging in or advancing  
3 prostitution under section 712-1206(2), street prostitution and  
4 commercial sexual exploitation in designated areas under section  
5 712-1207(1)(a) or (2)(a), or convicted of a lesser offense when  
6 originally charged with a violation of section 712-1200,  
7 712-1206(2), or 712-1207(1)(a) or (2)(a), may file a motion to  
8 vacate the conviction if the defendant is not subsequently  
9 convicted of any offense under the Hawaii Penal Code within  
10 three years after the date of the original conviction.

11 (2) The court shall hold a hearing on a motion filed under  
12 ~~[this section]~~ subsection (1) to review the defendant's record  
13 over the three years after the date of the original conviction  
14 under section 712-1200, 712-1206(2), or 712-1207(1)(a) or (2)(a)  
15 or conviction of a lesser offense when originally charged with a  
16 violation of any of those sections, and if the court finds that  
17 the defendant has not been convicted of any offense under the  
18 Hawaii Penal Code within this three year period, the court shall  
19 vacate the conviction.

20 (3) Notwithstanding section 831-3.2 and any other law to  
21 the contrary, a person who is a victim of human trafficking may



1 file a petition for expungement of the person's criminal record;  
2 provided that the record resulted from the person's arrest or  
3 prosecution for an offense committed or reported to have been  
4 committed when the person was a victim of human trafficking;  
5 provided further that the offense was committed or reported to  
6 have been committed as part of the human trafficking scheme in  
7 which the person was a victim or was undertaken at the direction  
8 of an operator of the scheme.

9       (4) The court shall hold a hearing on a petition filed  
10 under subsection (3) to review the person's record during the  
11 three years after the date of the original conviction under  
12 section 712-1200, 712-1206(2), or 712-1207(1)(a) or (2)(a) or  
13 conviction of a lesser offense when originally charged with a  
14 violation of any of those sections, and if the court finds  
15 reasonable evidence that the person was a victim of human  
16 trafficking, the court shall issue an order requiring that the  
17 record be expunged."

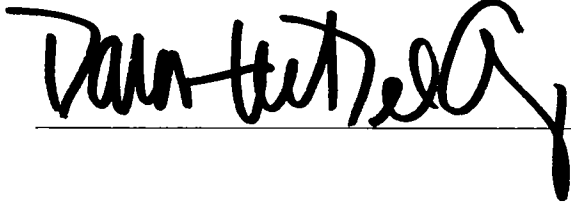
18       SECTION 8. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY:





**Report Title:**

DHS; AG; Human Trafficking; Statewide Coordinator; Victim Restitution; Forfeiture; Expungement

**Description:**

Requires the Department of Human Services to develop, and certain businesses and establishments to post, a notice containing information about the National Human Trafficking Hotline. Requires the Department of the Attorney General to establish a human trafficking statewide coordinator and program and to submit reports to the Legislature on efforts to address human trafficking and commercial sexual exploitation of children. Requires the children's justice program to coordinate the investigation and case management of child trafficking cases, including those involving commercial sexual exploitation of children. Specifies that court-ordered restitution for labor trafficking may include medical costs of necessary victim rehabilitation. Requires a person convicted of sex trafficking to forfeit assets from trafficking activity and requires that assets first be used to pay restitution and damages owed to the trafficking victim. Provides a process for trafficking victims to have criminal records expunged in certain circumstances.

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

